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Air Pollution Regulations in State Implementation Plans: New York

Abcor Inc, Wilmington, MA

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New York

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16. ABSTRACT

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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New York

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

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U.S. ENVIRONMENTAL PROTECTION AGENCY
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Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

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EPA-450/3-78-082 Air Pollution Regulations in State Implementation Plans: New York

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Publication No. EPA-450/3-78-082

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

NEW YORK

Submittal Date	Approval Date	Description
Original	5/31/72	Note: Part 201 of Subchapter A is disapproved for the following regions. SOs Stds for Hudson Valley Intrastate Region Primary SOs Stds for Niagra Frontier Intrastate Region Secondary SOs Stds for Genesee - Finger Lakes and Southern Tier West Intrastate Regions. Secondary SOs Stds for Central New York, Southern Tier East Intrastate Regions, New York portion of the Champlain Valley Intrastate Region
2/9/72	5/31/72	Parts 175, 176, 177, 185, 197, 203 Note: 197 is missing
2/11/72	5/31/72	Part 200, Article 9 of New York City
2/14/72	5/31/72	Part 192
5/24/72	9/22/72	Regs 200, 201, 202, 207, 212, 215, 219, 220, 222, 226, 230
7/20/72	9/22/72	Parts 204, 205, 214, 217, 223, 225, 227, 230 Part 230 was not in submittal, copy included

Submittal Date	Approval Date	Description
2/6/73	8/20/74	Part 226 Note: Sec. 226.3(g) is disapproved.
8/15/73	2/25/74	Parts 200, 201
2/17/74 (1/17/74)?	9/17/74	Part 205
8/29/74	6/2/75	Part 225
10/11/74	6/2/75	Part 225
12/6/74	6/2/75	Part 225
1/27/75	9/15/75	Part 203
2/25/75	6/2/75	Part 225
5/8/75	9/15/75	Part 203
9/20/76	5/18/77	Part 225
11/5/76	5/18/77	Part 225

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52.1683	Transportation and Land-use Controls
52.1685	General Requirements, (Public Availability of Emission Data)
52.1686	Prevention of Significant Deterioration

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  - 4.6 OXIDANTS
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(2.0) PART 200 - GENERAL PROVISIONS

(1.0) Section 200.1 Definitions

(Additional statutory authority: Environmental Conservation Law, 3-03-1, 19-0301, 19-0303)

a. Air cleaning installation, air cleaning device control equipment

Any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

b. Air contaminant

A dust, fume, gas, mist, odor, smoke, vapor, pollen, or any combination thereof.

c. Air contamination

The presence in the outdoor atmosphere of one or more air contaminants which contribute or which are likely to contribute to a condition of air pollution.

d. Air contamination source or emission source.

1. Any apparatus, contrivance or machine capable of causing emission of any air contaminant to the outdoor atmosphere either directly, or through an exhaust system, an air cleaning device or a stack. When more than one apparatus, contrivance or machine is connected to a single exhaust system, air cleaning device or stack, their combination shall be considered a single air contamination source or emission source.

2. Any facility, building, structure or installation or combination thereof which directly or indirectly results, or may result in emissions of any air contaminant for which there is a State or Federal ambient air quality standard, limited, however, to the following:

   (i) Any garage or parking facility in the County of New York.

   (ii) Any facility with an associated parking area(s) upon which the facility will rely with a total capacity of 1,500 or more cars.

   (iii) Any parking facility with an existing capacity of less than 1,500 cars which will increased to 1,500 or more cars.

(iv) Any parking facility with an existing capacity in excess of 1,500 cars which will be increased by more than 25 percent, or more than 1,500 cars, whichever is less.

(v) Airports served by regularly scheduled airlines.

(vi) Roads with a maximum expected traffic volume within 10 years of completion of:

  (a) 3,000 vehicles or more in eight hours, or

  (b) 1,500 vehicles or more in one hour.

e. Air pollution

The presence in the outdoor atmosphere of one or more contaminants in quantities, of characteristics and of a duration which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property.

f. Combustion installation

An installation, consisting of one or more furnace, device, engine or turbine in which fossil fuel and/or wood is burned with air or oxygen and the air contaminant emissions include only those products resulting from

1. combustion of the fuel,

2. additives or impurities in the fuel and

3. material introduced for the purpose of altering air contaminant emissions.

g. Commissioner

Commissioner of Environmental Conservation of the State of New York.

h. Diesel engine

An internal combustion engine in which air is compressed to a temperature capable of igniting fuel injected into the cylinders where combustion occurs.

i. Distillate oil

A fuel oil consisting of distilled fractions and having a kinematic viscosity of 5.3 centistokes or less at 100 degree Fahrenheit. This includes ASTM grade numbers 1 and 2 fuel oil, ASTM grade numbers 1-D and 2-D diesel fuel oil and proposed ASTM grade numbers 1-GT and 2-GT gas turbine fuel oil.

j. Emission rate potential

The rate in weight per unit time at which air contaminants would be emitted to the outdoor atmosphere in the absence of air pollution control equipment or other control measures. The emission rate potential for cyclic operations shall be determined by considering the peak emission potential and total emission potential over the time period of the cycle.

k. Environmental rating

An assigned rating indicated by the letter A, B, C, or D, which considers the potential environmental effects of an air contamination source on its surroundings.

l. Exhaust and/or ventilation system

Any system which removes air contaminants from a process and transports them from their point of generation to the outdoor atmosphere.

m. Fossil fuel burning equipment

Any furnace, steam, hot-air or hot-water generating equipment or any other device, exclusive of process equipment in which the fuel burned is coal, oil, gas or other fossil fuels.

n. Fuel

Solid, liquid, or gaseous combustible material

o. Garbage

The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

p. Incinerator

Any structure or furnace in which combustion takes place and type 0, 1, 2, 3, or 4 refuse is used as a fuel, alone or in conjunction with fossil fuel.

q. L.P. gas

A petroleum hydrocarbon, such as propane, butane, or isobutane, which is normally a gas but which can be compressed and condensed to a liquid.

r. Motor vehicle

A vehicle which can travel on land and which is propelled by means other than human or animal muscular power except such vehicles which run only on tracks or rails.

s. On-site incinerator

Any incinerator except one used to burn refuse which is collected from more than 100 different premises and brought to the incinerator site by truck.

t. Opacity

The degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

u. Open fire

Any outdoor fire or outdoor smoke producing process from which the air contaminants are emitted directly into the outdoor atmosphere.

v. Outdoor atmosphere

The atmosphere outside of and surrounding all buildings, structures, stacks or exterior ducts.

w. Particulates

Any air or gas-borne material, except water, which exists as a liquid or solid at 70 degrees Fahrenheit and 20.92 inches of mercury pressure.

x. Permissible emission rate

The maximum rate at which air contaminants are allowed to be emitted to the outdoor atmosphere.

y. Person

Any individual, public or private corporation, political subdivision, (3.0) PART 201 - PERMITS AND CERTIFICATES

(2.0) Section 201.1 Applicability

This Part shall apply throughout the State of New York except in counties and cities whose local laws, ordinances or regulations are consistent with this Subchapter provided, that such counties and cities have and maintain an adequate staff to implement and to enforce the provisions of such local ordinances, laws or regulations in accordance with standards established by the commissioner; and provided that in December of the preceding year, the commissioner has promulgated a list of such counties and cities which he will exempt during the calendar year following.

(2.0) Section 201.2 Prohibitions

a. Except as provided in Section 201.8, no person shall initiate construction or modification of an air contamination source or an air cleaning device, exhaust system or stack without having obtained a permit to construct or a provisional permit to construct from the commissioner.

b. Except as provided in Section 201.8 and except where otherwise permitted by the commissioner, no person who owns as air contamination source shall operate, use, or permit to be used, such air contamination source without having a valid certificate to operate or provisionsal certificate to operate, issued by the commissioner.

c. A person who owns an air contamination source shall be permitted to operate such source without a certificate to operate provided he has applied for a certificate to operate. Such person shall terminate operation of such source on receipt of written notification that his application has been disapproved.

(3.0) 201.3 Application for and issuance of permits and certificates*

a. Any person who plans to construct or modify an air contamination source or an air cleaning device or who owns an existing air contamination source for which a certificate to operate is required, shall file an application with the commissioner for a permit to construct and/or certificate to operate. When requested by the commissioner, applicants shall include with the filed application, plans and specifications for the air contamination source including location of stack sampling ports, test scaffolds and any other reasonable and pertinent information.

*Applications for permits to construct pertaining to air cleaning devices on exhaust and/or ventilation systems required under the Labor Law and/or Industrial Code rules are reviewed for the commissioner by the Industrial Commissioner.

b. The commissioner shall issue a permit to construct only after the applicant demonstrates to his satisfaction that

1. the operation of the source will not prevent the attainment or maintenance of any applicable ambient air quality standards and

2. the source will operate without causing a violation of applicable Rules and Regulations.

c. A certificate to operate shall be issued by the commissioner for a period not to exceed three years when it is demonstrated that the existing, new or modified air contamination source or air cleaning device can be operated in conformity with all applicable Parts of this Subchapter.

d. A person who owns an air contamination source or an air cleaning installation shall construct, modify, test install and continue to operate in accordance with all the conditions of the permit to construct and or the certificate to operate and all applicable Parts of this Subchapter. The commissioner may suspend a certificate or permit if there is a failure to comply with its conditions and/or all applicable Parts of this Subchapter.

(3.0) 201.4 Permit to construct

a. A permit to construct shall be valid for one year from the date of issuance unless extended or suspended by the commissioner.

b. Where the requirement of Section 201.2 and/or Section 201.3 would create an undue hardship or cause unreasonable delay, a person may proceed to construct a new or modified air contamination source, at his own risk, only after having received a provisional permit to construct from the commissioner. Within 90 days of issuance of the provisional permit to construct such person shall either discontinue construction or shall have applied for a permit to construct as required by Section 201.2 and/or Section 201.3. The provisional permit to construct shall be in effect until such time the commissioner issues a permit to construct or disapproves or cancels the application.

(3.0) 201.5 Certificate to operate

a. The commissioner may issue a provisional certificate to operate for a limited time period not to exceed one year, where he has reason to believe that an air contamination source is a temporary, trial, or experimental installation, or in the case where the commissioner has required the submission and acceptance of a stack test report or other information as a condition to the issuance of a certifiace to operate or permit to construct.

b. Any certificate to operate or equivalent issued prior to the effective date of this Part, shall expire 15 months after the effective date of this Part. Expired certificates to operate are invalid.

c. Any person who owns an air contamination source or air cleaning device shall operate and maintain such source or device in accordance with this Subchapter and existing laws. Failure of such person to so operate and maintain the effectiveness of such source and/or device shall be sufficient reason for the commissioner to revoke or deny a certificate to operate.

(3.0) 201.6 Disapproval of application

If the application for a permit to construct or certificate to operate is disapproved, the applicant shall be notified in writing of the reasons. The commissioner may cancel such application if the applicant fails to submit an amended application within 90 days of notification.

(3.0) 201.7 Transference

No person who owns an air contamination source shall transfer a permit to construct or a certificate to operate from one air contamination source to another or from one person to another.

(2.0) 201.8 Exemptions

A person who owns any of the following air contaminations sources shall be exempt from all provisions of the other sections of this Part but shall not be exempt from other Parts of this Subchapter.

a. Combustion installations where the manufactureres rated heat input is less than one million BTU per hour.

b. Stationary internal combustion engines under 400 horsepower.

c. Unit space heaters.

d. Fuel burning equipment using as fuel No. 2 oil, diesel oil, natural gas, L.P. gas, or a mixed gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of New York.

e. Emergency equipment installed in hospitals or other public institutions or buildings for use when the usual sources of heat, power, and lighting are temporarily unobtainable.

f. Emergency relief vents, stacks and ventilating systems.

g. Vehicles for transportation of passengers and/or freight.

h. Vacuum cleaning systems used exclusively for commercial or residential housekeeping.

i. Ventilating systems used for heating or cooling buildings for the comfort of people living or working within the building.

j. Laboratory ventilating and exhaust systems which are not used for radioactive air contaminants.

k. Process, exhaust or ventilating systems in bakeries or establishments preparing food for on-site human consumption.

l. Exhaust or ventilating systems for soldering or welding.

m. Exhaust or ventilating systems for lead melting pots and in printing establishments.

n. Exhaust or ventilating systems for fuel, solvent or paint storage tanks, rooms or cabinets where the average emission rate is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

o. Exhaust or ventilating systems for photocopying, photographic or other related process equipment where no ammonia gas is generated.

p. Process, exhaust or ventilating systems in municipal sewage treatment plants but not including sewage sludge incineration.

q. Process, exhaust or ventilating systems in dry cleaning establishments servicing the retail trade only.

r. Exhaust or ventilating systems for food blanching or cooking in water.

s. Ventilating systems used in buildings to house animals.

t. Exhaust or ventilating systems for spray, dip, or roller coating using water based coat material where only water vapor is released.

u. Exhaust or ventilating systems for printing, spray, dip or roller coating where the average emission rate is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

v. Exhaust or ventilating systems for nonaqueous solvent degreasers where the solvent make-up is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

w. Exhaust or ventilating systems for melting of gold, silver, platinum and other precious metals.

201.9 Recycling, salvage or disposal of collected air contaminants.

a. Where practical, any person, who owns, or operates an air contamination source, shall recycle or salvage air contaminants collected in an air cleaning device.

b. No person shall remove collected air contaminants from an air cleaning device or shall recycle, salvage or dispose of such air contaminants in a manner so as to reintroduce them to the outdoor atmosphere to cause air pollution.

(9.0) PART 202 - STACK TESTING, SAMPLING AND ANALYTICAL DETERMINATIONS

(9.0) 202.1 Required stack tests

If the Commissioner has reason to believe that an air contamination source may not be in compliance with the provisions of this Subchapter, he may require the person who owns such air contamination source to submit an acceptable stack test report within a stated time demonstrating that the source is in compliance with this Subchapter. Such person shall bear the cost of stack testing and preparing the stack test report. Failure of such person to submit a report acceptable to the Commissioner within the time stated shall be sufficient reason for the commissioner to suspend or deny a certificate to operate.

(2.0) 202.2 Notification

A person who is required by the Commissioner to submit a stack test report shall notify the Commissioner, in writing, not less than 30 days prior to the test, of the time and date of the test. Such notification shall also include the acceptable procedures to be used to stack test including sampling and analytical procedures. Such person shall allow the Commissioner, or his representative, free access to observe stack testing being conducted by such person.

(9.0) 202.3 Acceptable procedures

Stack testing, sampling and analytical determination to ascertain compliance with this Subchapter shall be conducted in accordance with procedures acceptable to the Commissioner. The person who owns an air contamination source shall submit the stack test report to the Commissioner within 30 days after the completionof tests.

(9.0) 202.4 Separate stack tests by the Commissioner

a. If the Commissioner has reason to believe that an air contamination source may not be in compliance with the provisions of this Subchapter, he may conduct separate or additional stack tests on behalf of the state. Any person who owns an air contamination source, when requested by the Commissioner, shall provide sampling holes, scaffolding and other pertinent allied facilities required for collection of stack samples. Such person shall bear the cost of such facilities.

b. If a person who owns an air contamination source fails to provide sampling holes, scaffolding and other pertinent allied facilities required for collection of stack samples, the Commissioner may then provide such facilities, and such person shall bear the cost.

(10.0) PART 203 - INDIRECT SOURCES OF AIR CONTAMINATION

(2.0) Section 203.1 - Applicability

a. This Part shall apply throughout the State of New York; provided, however, that the Commissioner may by order filed with the Secretary of State exempt persons in a city or county in whole or in part from the provisions of this Part where he has determined that such city or county has enacted a local law, ordinance or regulation which will achieve the purposes of this Part or applicable portions thereof, and that such city or county has adequate staff to enforce and will enforce the provisions of such local law, ordinance or regulation; and provided, further, that the Commissioner may by order filed with the Secretary of State delegate the enforcement of this Part in whole or in part to a city or a county where he has determined that such city or county has adequate staff to enforce and will enforce the provisions of this Part or applicable portions thereof. (NOTE: The following cities and counties have been determined exempt or been delegated enforcement responsibilities: New York City). He may revoke any such exemption or delegation where he determines that the stated conditions no longer exist. An order of exemption or delegation may contain such provisions concerning review of actions of any such city or county as the Commissioner may deem necessary.

b. Except as provided in Section 303.3, this Part shall not apply to the construction or modification of an indirect source of air contamination if such construction or modification commenced prior to the effective date of this Part. For the purpose of this Subdivision, construction or modification will be deemed to have commenced if a person has entered into a contract for paving or installation of foundations or for the fabrication, erection or installation of the building components of an indirect source or associated parking area and has engaged in a continuous program of on-site construction or modification of such source or area; except that in the case of roads, highways and airports where acquisition of land is required, an appropriation of land through eminent domain proceedings as evidenced by the filing of a description and map in the office of the appropriate county official or the negotiated purchase of land as evidenced by a binding contract of purchase, shall constitute the commencement of construction or modification, if followed by a continuous program of on-site construction or modification. Interruptions resulting from force majeure shall be disregarded in determining whether a construction or modification program is continuous.

c. With respect to any indirect source to which the owner or operator believes this Part does not apply, the owner or operator may request in writing an applicability ruling from the Commissioner.

(1.0) Section 203.2 Definitions

As used in this Part, the following terms shall have the indicated meanings unless noted otherwise:

a. "Indirect source of air contamination" or "indirect source" means a facility, building, structure or installation the construction or operation of which results or may result directly or indirectly in associated vehicular movements or aircraft operations which contribute to ambient concentrations of any pollutant for which there is an ambient air quality standard adopted pursuant to the Federal Clean Air Act, as amended, (42 U.S.C. 1857 et seq., hereinafter referred to as the "Act"), including but not limited to:

1. highways and roads;
2. parking facilities, including lots and garages;
3. shopping centers and other retail and commercial facilities;
4. recreational centers, amusement parks, sports stadiums and entertainment facilities;
5. residential complexes;
6. airports;
7. office, institutional and industrial facilities;
8. hotels and motels;
9. theaters; and
10. hospitals.

b. "Associated parking area" means a parking facility or facilities operated in conjunction with an indirect source.

c. "Aircraft operation" means an aircraft take-off or landing.

d. "Commence construction" or "commence modification" means to initiate a program of on-site construction, including, but not limited to, site clearance, grading, dredging, land filling or entering into a contract for paving or installation of foundations or for the fabrication, erection or installation of building components, specifically designed for an indirect source or an associated parking area or in preparation for the fabrication, erection on installation of the building components of an indirect source.

e. "Urban area" means any of the following counties:

1. Albany, Rensselaer, Saratoga and Schenectady Counties (Albany-Schenectady-Troy area)
2. Broome and Tioga Counties (Binghamton area)
3. Erie and Niagara Counties (Buffalo area)
4. Chemung County (Elmira area)
5. Nassau, Rockland, Westchester and Suffolk Counties, and the counties of New York City (New York area)
6. Dutchess County (Poughkeepsie area)
7. Livingston, Monroe, Orleans and Wayne Counties (Rochester area)
8. Madison, Onondaga and Oswego Counties (Syracuse area)
9. Oneida and Herkimer Counties (Utica-Rome area)

(2.0) Section 203.3 Prohibitions

a. No person shall commence construction or modification of an indirect source of air contamination or associated parking area without having a valid permit to construct issued by the Commissioner pursuant to this Part. The foregoing prohibitions shall apply only to:

1. The construction or modification of any parking facility or any associated parking area in New York County.
2. Any airport, the construction or modification of which results or may result in the following activity within ten years after completion of the construction or modification:

(i) In the case of a new airport, 50,000 or more aircraft operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(ii) In the case of a modified airport, an increase of 50,000 or more aircraft operations per year by regularly scheduled air carriers over the existing annual volume of aircraft operations, or an increase of 1,600,000 or more passengers per year.

3. Within an urban area:

(i) The construction of any new parking facility, or other new indirect source with an associated parking area, which adds new parking capacity of 1,000 vehicles or more:

(ii) The modification of any parking facility or any associated parking area which, by itself or when added together with all parking capacity constructed subsequent to November 4, 1973 or the date the latest permit to construct has been issued for such facility or area, will produce parking capacity of 500 vehicles or more, unless such modification is permitted under the latest permit to construct;

(iii) The construction of any road or highway section on which the annual average of daily traffic volume within ten years of completion of construction exceeds or may exceed 20,000 vehicles;

(iv) The modification of any existing section of road or highway which increases or may increase the annual average of daily traffic volume within ten years of completion of modification by more than 10,000 vehicles.

4. Outside an urban area,

(i) The construction of any new parking facility, or other new indirect source with an associated parking area, which adds new parking capacity of 2,000 vehicles or more;

(ii) The modification of any parking facility or of any associated parking area which, by itself or when added together with all parking capacity constructed subsequent to November 4, 1973 or the date the latest permit to construct has been issued for such facility or area, will produce parking capacity of 1,000 vehicles or more, unless such modification is permitted under the latest permit to construct.

5. Whenever an indirect source or associated parking area is to be constructed or modified in planned incremental phases, the Commissioner may approve any or all such phases prior to the initiation of any such phase.

b. No person shall operate an indirect source of air contamination, the construction or modification of which requires a permit under Subdivision (a), without first having obtained a permit to construct and no person shall operate an indirect source which does not comply with the terms and conditions of the applicable permit to construct.

(3.0) Section 203.4 Application for Permit

a. An application for a permit to construct shall be filed with the Commissioner in such form and manner and contain such information as the Commissioner may require pursuant to guidelines which shall be made availabe to any person on request. Such information may include the submission by the applicant of appropriate atmospheric diffusion models, measured air quality data, reliable analyses and such other additional information, testing or documentation as the Commissioner may reasonably require to determine compliance with Section 303.9.

b. After receipt of an application or supplement or correction thereto the Commissioner will advise the applicant of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the application shall not be considered complete until all required information has been supplied.

c. An applicant may be required to file with the application an undertaking in an amount fixed by the Commissioner to guarantee payment of the costs of any public hearing.

(3.0) Section 203.5 Preliminary Review of Applications and Public Comment

a. After receipt of a completed application, the Commissioner will make a preliminary analysis of the application and a preliminary determination whether he intends to approve, approve with conditions or deny the application and the applicant shall publish at its own expense a notice of application in the form prescribed by the Commissioner once a week for two consecutive weeks in one newspaper designated by the Commissioner having a general circulation in the county in which the proposed construction or modification of an indirect source is to occur. The applicant shall give such additional notice as the Commissioner may require in order adequately to inform the public of such application.

b. The notice shall provide for opportunity for written public comment on such application within a stated period not less than thirty days after the date of first publication and shall specify that the application and the Commissioner's preliminary analysis and determination are available for public inspection and copying at one or more specified locations in the affected air quality control region. Prior to the end of the public comment period, proof of notice shall be submitted to the appropriate regional office of the Department.

c. A copy of the notice shall be sent by the applicant to: the regional administrator of the United States Environmental Protection Agency; all other State and local air pollution control agencies having jurisdiction in the air quality control region in which the indirect source is proposed to be built; the chief executive of the appropriate city, town, village and county; the appropriate County and Regional Planning Boards; and any appropriate local board or committee charged with responsibility for activites in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

d. After the period for public comment specified in such notice, the Commissioner will hold a hearing if he determines that there is sufficient public interest in and reason for such a hearing or if the applicant so requests. In making such a determination, he will consider the public comments received, including any requests for a public hearing, and the anticipated impact of the indirect source's effect on air quality. In the event that he determines that a hearing is appropriate, he will direct the applicant to publish notice of such a hearing as prescribed in Section 203.6. The hearing shall be held not less than thirty days after notice is first given.

e. The applicant shall bear the costs of any such hearing, making payment directly to the provider of the services, material or facilities, including the following:

    1. stenographic and other costs of producing the record;

    2. newspaper publication and other costs of giving notice; and

3. costs of renting any necessary facilities and equipment for holding the hearing.

f. The Commissioner will consider any public comments timely received in making his final determination. The applicant will be given an opportunity to submit a written response to any public comment and the Commissioner will consider such response in making his final determination.

g. The Commissioner may dispense with the period for public comment and proceed directly to a public hearing if he determines that the anticipated impact of the proposed project on air quality and/or the public interest so requires or if the appliant so requests. In such a case the applicant shall give notice of hearing instead of notice of appliation. The notice of hearing shall contain the information required by this Section.

(16.0) Section 203.6 Public Notice of Hearings

Public notice of any hearing held pursuant to Section 203.5 shall be in a form prescribed by the Commissioner and be circulated in the same manner as specified in Section 302.5. It shall specify that the hearing shall be held not less than thirty days after the date of first publication and that persons wishing to be heard at such public hearing may file a statement of the grounds of support of, opposition to or interest in the application at a specified office of the Department prior to the date of the public hearing. It shall also specify that persons may submit their comments for the record whether or not wishing to be heard. Proof of notice shall be submitted prior to the date of the public hearing.

(16.0) Section 203.7 Public Hearing Procedures

a. Parties to the public hearing held pursuant to Section 203.5 shall be the applicant, any person who files a written public comment or statement pursuant to Section 203.5(b) or Section 203.6, any municipality within the boundary of which the indirect source is located and such other persons as the hearing officer shall, in his discretion, determine to be in the public interest to permit to intervene as a party, either generally or for a special purpose.

b. At any public hearing held pursuant to Section 203.5, any party shall be afforded the opportunity to present oral or written statements or arguments and to present evidence on issues of fact; provided, however, that the Department shall have the discretion to fix reasonable time limits on the presentation of oral statements or evidence and when time and scheduling considerations necessitate, may require the submission of statements, arguments or evidence in writing.

c. The public hearing shall be conducted by a hearing officer designated by the Commissioner. The hearing officer is empowered to:

    1. Provide for the taking of written and oral statements or data;

    2. Require the submission of sworn testimony and permit the cross-examination of witnesses subject to such limitations as he may impose to avoid irrelevant or repetitious cross-examination;

    3. Regulate the course of the hearing, fix the time for the filing of written statements, arguments and evidence, provide for the scheduling and preservation or oral statements, arguments and evidence, and set the time and place for continued hearings; and

    4. Take notice of general and scientific facts, provided that he shall give the parties an opportunity to contest the facts so noticed.

d. Any materials, including records and documents, in the possesstion of the Department or which are relevant to the application, may be relied upon by the Commissioner in making his determination. Any document relied on by the Department shall be available for inspection by the parties.

e. The hearing officer shall make findings of fact and his recommendation and shall forward them to the Commissioner.

f. The Commissioner may at any time direct the hearing be reopened prior to issuance of the permit to construct where the public interest so requires.

g. In the event no hearing is held, an official file shall be compiled by the Department consisting of documents submitted by the applicant, any public comments and any additional documents relied on by the Department with respect to the application. Any document made part of such official file shall be available for inspection by the appliant and other interested persons.

h. The Commissioner may at any time prior to the issuance of the permit to construct request additional information from the applicant.

(2.0) Section 203.8 Determination

a. The Commissioner may issue or deny the permit to construct or issue it subject to conditions as provided in Section 203.10.

b. The Commissioner will notify the applicant and any parties to any public hearing in writing of his approval or disapproval of the application. If he disapproves the application, approves it with substantial modifications or if there has been a public hearing, he shall set forth the reasons for his decision.

(3.0) Section 203.9 Standards for Issuance of Permit

a. The Commissioner will not issue a permit to construct unless he determines that:

1. the operation of the indirect source of air contamination or any associated parking area will not cause a violation of any appliable ambient air quality standard adopted pursuant to the Act and in effect at the time of the issuance of the permit or, where a violation of such standard exists, will neither increase the ambient concentration of the applicable pollutant nor interfere with attainment or maintenance of such standard.

2. the operation of the indirect source of air contamination or any associated parking area will not result in any violation of applicable portions of any control strategy of an appliable air quality implementation plan approved or promulgated under the Act and in effect at the time of the issuance of the permit; and

3. the operation of the source will not result in a violation of any of the provisions of this chapter.

b. For purposes of this section, the appliable ambient air quality standards for:

1. construction of highway sections which will produce an annual average of daily traffic volume of 50,000 or more vehicles within ten years after completion of construction;

2. modification of a highway section which will increase the annual average of daily traffic volume by 25,000 vehicles or more within ten years after completion of modification; and

3. airports

shall mean the standards for carbon monoxide, photochemical oxidants and nitrogen dioxide adopted pursuant to the Act. For all other indirect sources, the applicable ambient air quality standard shall mean the standard for carbon monoxide adopted pursuant to the Act. Determinations of whether a violation of such standards will be caused or whether, in the case of an existing violation, ambient concentrations will be increased will be based on anticipated ambient concentrations as of the time of completion of the proposed construction or modification or any phase thereof and during a reasonable time thereafter. In the case of highway sections and airports such time shall be a ten year period following such completion.

c. The Commissioner will make the determination pursuant to paragraph (a)(1) of this section for carbon monoxide by evaluating the anticipated ambient concentrations of carbon monoxide at receptor or exposure sites where people might reasonably be expected to be exposed and which will be affected by the vehicular movements expected to be attracted by the indirect source; such determination shall be based upon traffic flow characteristic guidelines, appropriate atmospheric diffusion models, any other reliable analytic method or any combination thereof.

d. The Commissioner will make the determination pursuant to paragraph (a)(1) of this section for photochemical oxidants and nitrogen dioxide by evaluating the anticipated ambient concentrations of such pollutants at one or more locations determined by him to be representative of the points of greatest exposure within the affected area.

(2.0) Section 203.10 Approval Subject to Conditions

a. Whenever an indirect source as proposed by an applicant would not be permitted to be constructed or modified because of failure to meet the standards set forth in Section 203.9, the Commissioner may approve the application subject to such conditions as will permit such source, if constructed or modified in accordance with such conditions, to meet the standards set forth in Section 203.9.

b. Notwithstanding the provisions related to modified indirect sources contained in Section 203.3, the Commissioner may condition any approval by specifying the extent to which and the period within which the indirect source, when completed, may not be further modified without approval of such modification under this Part.

c. The Commissioner may at the time of issuance of the permit attach such other conditions, including monitoring requirements, as will assure compliance with the permit or the provisions of this Part; provided, however, that no condition shall be imposed which would require partial or complete curtailment of operation of the indirect source based on unanticipated changes of ambient concentrations of pollutants for which the applicant cannot be responsible; except that nothing herein shall relieve the applicant from responsibility to comply with the provisions of any present or future applicable implementation plan.

(3.0) Section 203.11 Expiration of Permit

Unless otherwise specified therein, a permit to construct shall expire when no construction or modification has been commenced within a period of two years after the issuance of the permit or when no substantial progress is made in such construction or modification for a period of two years. For the purpose of this section, interruptions resulting from force majeure shall be disregarded. The Commissioner may extend any time period upon a satisfactory showing that an extension is justified.

(3.0) Section 203.12 Modification of Permit

The permit to construct or any condition thereof may be amended at any time upon written application to the Commissioner and a showing that modification thereof will not result in violation of the standards contained in Section 203.9. The Commissioner may require reapplication under Section 203.4 where he determines that there may be significant public interest in such modification.

(3.0) Section 203.13 Suspension and Revocation of Permits

The Commissioner may suspend a permit to construct at any time upon any of the following grounds:

a. Failure to construct the indirect source substantially in accordance with the application as approved;

(50.4) (51.16) PART 204 HYDROCARBON EMISSIONS FROM STORAGE AND LOADING FACILITIES

New York City Metropolitan Area

(2.0) Section 204.1 - Area Applicable

This Part shall apply only in New York City Metropolitan area, consisting of the five counties within the City of New York as well as the counties of Nassau, Westchester, Rockland and Suffolk.

(4.0) Section 204.2 - Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which, alone or in combination with emissions from other sources, would contravene any established standard for the quality of the ambient air, or would cause air pollution.

(1.0) Section 204.3 - Definitions

a. Effluent Water Separator

Any tank, box, sump or container in which volatile organic material floating, entrained or contained in water entering such tank, box, sump or container is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

b. Submerged Fill Pipe

Any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge of which is entirely submerged when the liquid level is 18 inches or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank. Compliance with Columns 8 and 9 of Table 6 of API standard 650, dated June 1970, also meets the requirement of this section.

c. Volatile Organic Liquids

Any material containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element or elements which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions and exists as a liquid under conditions of standard temperature and pressure.

d. Gasoline Service Station

A facility for retail sale of gasoline motor fuel.

(2.0) Section 204.4 - Prohibitions

a. Storage of volatile organic liquids.

No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 65,000 gallons capacity any volatile organic liquid unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the outdoor atmosphere or is designed and equipped with one of the following vapor loss control devices:

1. A floating pontoon type or double deck type roof or internal floating cover, which will rest on the surface of the liquid contents equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile organic liquids have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place.

2. A vapor recovery system, consisting of a device capable of collecting the vapor from volatile organic liquids and a means for processing such volatile organic vapors and gases so as to prevent their emission to the outdoor atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

3. Other equipment or means of equal efficiency for purposes of air pollution control as approved by the Commissioner.

b. Filling of Stationary Storage Vessels

Except in the case of existing underground storage vessels at gasoline service stations and farms, no person shall place store or hold in any stationary storage vessel of more than 275 gallon capacity, any volatile organic liquid unless such vessel is equipped or constructed in accordance with one of the following:

1. A permanent submerged fill pipe.

2. Pressure tank design as described in Section 204.4a.

3. A vapor recovery system as described in Section 204.4a.

4. Other equipment or means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

c. Loading of Mobile Storage Vessels

1. No person shall load any volatile organic liquid into any tank truck, trailer or railroad tank car from any loading facility that transfers more than an average of 40,000 gallons per day over a three month period unless such loading facility is equipped with an approved vapor collection and disposal system properly installed, in good working order and in operation. Such equipment shall consist of the following:

   (a) A loading arm with a vapor collection adaptor.

   (b) A device to force a vapor-tight seal between the adaptor and the hatch.

   (c) A means of preventing the drainage of volatile organic liquid from the loading device when it is removed from the hatch of any tank truck, trailer or railroad tank car or to accomplish complete drainage before such removal.

   (d) Fittings which make vapor-tight connections and which close automatically upon disconnection when loading is effected through means other than hatches.

   (e) Other equipment or means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

2. No person shall load any volatile organic liquid into any tank truck, trailer or railraod tank car fom any loading facility that transfers less than an average of 40,000 gallons per day over a three month period unless such loading facility is equipped with a submerged fill pipe or other means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

d. The emergency venting of vessels covered by this Part shall not be considered a violation.

e. Effluent Water Separators

No person shall use any compartment of any effluent water separator which recovers 200 gallons a day or more or any volatile organic liquid unless such compartment is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation.

1. A solid cover having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
2. A pontoon type or double deck floating roof, or internal floating cover, which will rest on the surface of the contents, equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
3. A vapor recovery system consisting of a vapor gathering system capable of collecting the organic vapors and gases discharged and a vapor disposal system capable of processing such organic vapaors and gases so as to prevent their emission to the outdoor atmosphere. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
4. Other equipment of equal efficiency for purposes of air pollution control as approved by the Commissioner.

f. Pumps and Compressors

All pumps and compressors handling volatile organic liquids shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as approved by the Commissioner.

(50.4) PART 205 PHOTOCHEMICALLY REACTIVE SOLVENTS & ORGANIC SOLVENTS FROM
(50.7) CERTAIN PROCESSES

(2.0) Section 205.1 Applicable geographical area. This Part shall apply only to New York City Metropolitan Area, consisting of the five counties within the City of New York, as well as the counties of Nassau, Westchester, Rockland and Suffolk.

(1.0) Section 205.2 - Definitions

a. The terms, in addition to those defined in Part 200 of this Subchapter, hereinafter defined for the purposes of this Part shall mean:

1. Afterburner

A catalytic and/or thermal combustion device used to control air contaminant emissions.

2. Architectural Coating

A surface coating applied to residential, industrial, public, or commercial buildings and their appurtenances.

3. Effluent Water Separator

Any tank, box, sump or container in which volatile organic material floating, entrained or contained in water entering such tank, box, sump or container is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

4. Emission Point

Any conduit, chimney, duct, vent, flue, stack or opening of any kind through which air contaminants are emitted to the outdoor atmosphere.

5. Heat Cure

A process in which heat is used and which results in tempering, strengthening, or other chemical change in processed or emitted materials.

6. Heat Drying

A process whereby heat is used to evaporate volatile solvent which does not undergo a chemical change.

7. Non-Photochemically Reactive Solvents

All solvents other than those defined in paragraph (11) of this Subdivision.

8. Opacity

The degree to which emissions other than condensed water reduce the transmission of light and obscure the view of an object in the background.

9. Organic Materials

Any chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

10. Organic Solvents

Organic materials which are liquids at a temperature of 70°F. and a pressure of 29.92 inches of mercury absolute which include diluents and thinners and which are used as but are not limited to dissolvers, viscosity reducers, or cleaning agents.

11. Photo-Chemically Reactive Solvents

(a) Any solvent containing more than 20 percent by volume of the chemical compounds described below or which contain such compounds below in amounts which exceed the allowable limits of such compounds described below as specified for each category.

Category #1 A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic type of unsaturation: allowable limit 5 percent.

Category #2 A combination of aromatic hydrocarbon with eight or more carbon atoms to the molecule except ethylbenzene: allowable limit 8 percent

Category #3 A combination of ethylbenzene ketones, having branched hydrocarbon structures or toluene: allowable limit 20 percent.

(b) If any organic solvent or any constituent of an organic solvent may, from its chemical structure, be classified into more than one of the above groups of organic compounds, it shall be classified in that category having the lowest allowable volume percentage specified.

12. Polymerization

A chemical conversion whereby simple molecules (monomers) react under any condition to form polymers.

13. Water Based Paint

A coating, the volatile content of which is at least 80 percent water and which contains no photochemically reactive solvents.

(50.4) Section 205.3 - Emission of Organic Materials From Certain Emission Sources

a. Except as provided in Subdivision (c) of this Section, no person shall cause or allow emissions of organic materials through an emission point from any emission source in which any organic solvent, or any material containing an organic solvent, comes into contact with flame, is baked, heat cured or heat polymerized in the presence of oxygen, which are in excess of 15 pounds in any 24 consecutive hours, or 3 pounds in any one hour except that these limitations shall not apply to any person utilizing control equipment which reduces such emissions of organic material to not more than 15% of the amount that would have been otherwise emitted in the absence of such control equipment.

b. Except as provided in Subdivision (c) of this Section, no person shall cause or allow emissions of organic materials through an emission point from any emission source not described in Subdivision (a) of this Section in which any photochemically reactive solvent or any material containing such solvent is used, which are in excess of 40 pounds in any 24 consecutive hours, or 8 pounds in any one hour except that these limitations shall not apply to any person utilizing control equipment which reduces such emissions of organic material to not more than 15% of the amount that would have been otherwise emitted in the absence of such control equipment.

c. Subdivisions (a) and (b) of this Section shall not be effective until January 31, 1974, with respect to any person who owns or operates an emission source which was in existence and operating prior to August 11, 1972.

d. Where organic materials from a single emission source are emitted through more than one emission point, the sum of the emissions from all such emission points shall not exceed the quantity that would be permitted if said emissions were emitted through a single emission point.

(50.1.2) Section 205.4 Opacity of Emission Limited

No person shall cause or allow emissions to the outdoor atmosphere having an opacity of 10 percent or greater from any emission source described in Subdivision (a) of Section 205.3 of this Part.

(2.0) Section 205.5 Use of Afterburners For Control of Emissions

No person shall utilize an afterburner to control emissions of organic material as required by Section 205.3 of this Part, unless 90 percent or more of the carbon content of such organic material is oxidized to carbon dioxide.

(51.21) Section 205.6 Sale or Purchase of Certain Architectural Coatings Prohibited

After January 31, 1974, no person shall sell, offer for sale or purchase any architectural coating containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans.

(51.21) Section 205.7 Application or disposal of certain materials restricted

a. After January 31, 1975, no person shall:

1. Apply any architectural coating containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans, or

2. Dispose of any photochemically reactive solvent or any material containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans, by any means which will permit the evaporation of such solvent into the outdoor atmosphere.

(51.21) Section 205.8 Identification of Architectural Coatings Required

Each container of any architectural coating sold or offered for sale in the New York City Metropolitan Area after January 31, 1974, shall be marked with a code identifying the product in the container, and any manufacturer of any architectural coating sold or offered for sale in the New York City Metropolitan Area after January 31, 1974 shall maintain records which list the solvent composition of the product represented by the code and shall make such records available to the Commissioner upon his request.

(2.0) Section 205.9 Exemptions

a. This Part shall not apply to:

1. The manufacture, transport or storage of organic solvents or materials containing organic solvents.
2. The use of effluent water separators.
3. The spraying or other employment of insecticides, pesticides, or herbicides.
4. The use of saturated halogenated hydrocarbons, perchlorethylene or trichloroethlene.
5. The use or sale of water based paint.
6. The use of coatings, the volatile content of which does not exceed 20 percent by weight and which contain only non-photochemically reactive solvents.
7. The application and heat drying of printing ink which contains less than 30 percent organic solvent by weight.

(8.0) PART 207 CONTROL MEASURES FOR AN AIR POLLUTION EPISODE

(1.0) Section 207.1 Definitions

a. Significant Air Contamination Source

Any air contamination source the emissions of which alone or in combination with others can be expected to have an adverse effect on ambient air quality during an air pollution episode. This category includes, but is not limited to: air contamination sources with emissions in excess of 100 tons per year; fossil fuel burning equipment rated at more than 200 million BTU per hour input; processes exhaust or ventilating systems with particulate emissions in excess of 100 lbs/hr; process, exhaust or ventilating systems which emit sulfur dioxide at a rate exceeding 10 lbs/hr; incinerators with particulate emissions in excess of 50 lbs/hr.

(8.0) Section 207.2 Episode Action Plan

a. Any person who owns a significant air contamination source shall submit a proposed episode action plan to the Commissioner within 90 days of his request therefor. The plan shall contain detailed steps which will be taken by the air contamination source owner to reduce air contaminant emissions during each stage of an air pollution episode. The Commissioner shall make available and furnish with his request therefor, guidelines for preparation of episode action plans.

b. Any person may submit a proposed episode action plan to the Commissioner whether or not the air contamination source to be covered by the plan is a significant air contamination source. Such plan, if approved by the Commissioner, would prescribe the steps to be taken by the source owner during an air pollution episode any summary order of the Commissioner to the contrary not withstanding.

c. Any person who owns a significant air contamination source or voluntarily submits an episode action plan in accordance with Subdivision 207.2(b) shall submit to the Commissioner within 90 days of his request therefor, a proposed modification of his episode action plan to accommodate advances in technology or knowledge of contaminant effects.

d. The Commissioner may issue an episode action plan to any person who fails to submit an acceptable plan or plan modification within the required time when so requested.

e. Upon petition, within 60 days of approval or issue of an episode action plan, the Commissioner shall grant a hearing to the significant air contamination source owner at a time and place as determined by the Commissioner.

f. An owner of a significant air contamination source shall make his episode action plan available at a convenient location on his premises for review by the Commissioner or his representative, at any time.

(8.0) Section 207.3 Air Pollution Episode

a. When weather conditions and/or concentration of an air contaminant or contaminants are such that immediate action is necessary to prevent further increases in air contamination or damage to life, property or environmental quality, the Commissioner shall designate by order that a Forecast, Alert I, Alert II or Emergency stage of an air pollution episode exists. The Commissioner shall have on file and make available the criteria used in determining the need to designate episodes.

b. The Commissioner may also designate by order that an episode exists when a single accident, occurence or condition has resulted or is likely to result in damage to life, property or environmental quality.

c. Once designated by the Commissioner, an episode or any stage of an episode shall remain in effect until terminated by the Commissioner.

d. Any person who owns an air contamination source for which an episode action plan has been issued or approved shall take whatever actions are prescribed by his episode action plan when an air pollution episode is in effect.

(2.0) PART 211 - GENERAL PROHIBITION

(2.0) Section 211.1 Prohibition

No person shall permit or cause any air contamination source to produce air pollution as this term is defined in article 12-A, section 1267 (4) of the Public Health Law.

(3.0) Section 211.2 Application

To the extent that there is a rule which applies to the control of a specific air contaminant or a specific air contamination source, section 186.1 shall not be applied and the other rule shall take precedence over and shall be applied in place of the general prohibition.

(50.1.1) PART 212 CONTAMINANT EMISSIONS FROM PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS

(2.0) Section 212.1 Applicability

This Part shall apply throughout the State of New York to contaminant emissions from processes, and exhaust and ventilation systems, except that when another Part applies to a specific air contaminant or a specific air contamination source, that Part shall take precedence and shall be applied in place of this Part.

(1.0) Section 212.2 Definitions

a. Air Contamination Source or Emissions Source

Any apparatus, contrivance or machine capable of causing emission of any air contaminant to the outdoor atmosphere either directly or through an exhaust system, an air cleaning device or a stack. When more than one apparatus, contrivance or machine is connected to a single exhaust system air cleaning device or stack, each such apparatus, contrivance or machine shall be considered a separate air contamination source.

b. Emission Rate Potential

The rate in weight per unit time at which air contaminants would be emitted to the outdoor atmosphere in the absence of air pollution control facilities or other control measures. The emission rate potential for cyclic operations shall be determined by considering the peak emission potential and the total emission potential over the time period of the cycle.

c. Environmental Rating

A rating indicated by the letter A, B, C, or D, which considers the environmental effects of an air contamination source on its surroundings.

d. Exhaust and/or ventilation system

Any system which removes air contaminants from a process and transports them from their point of generation to the outdoor atmosphere.

e. Permissible emission rate

The maximum rate at which air contaminants are allowed to be emitted to the outdoor atmosphere.

f. Process Weight

The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in the process is considered part of the process weight, but liquid and/or gaseous fuel uncombined water and combustion air are not.

g. Process Weight Per Hour

The total process weight divided by the number of hours in one complete operation from the beginning of a cycle to the completion thereof. For continuous processes, process weight should be determined on a daily basis.

(2.0) Section 212.3 Prohibitions

a. No person shall cause, permit or allow the emission of air contaminants from an emission source resulting from an operation begun or modified, after the effective date of this Part, which exceeds the permissible emission rates specified in tables 2 and 3, for the environmental rating as determined in accordance with table 1.

b. On January 1, 1971, or such later date as established by an order of the Commissioner, the permissible emission rates specified in Subdivision (a) shall become applicable to emission sources in existence on or prior to the effective date of this Part.

c. The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established air quality standards.

(2.0) Section 212.4 Abatement

a. The Commissioner may require the person operating or maintaining emission sources to provide pertinent data concerning emissions so as to show compliance with the requirements of Section 187.3.

b. When required by the Commissioner, the person operating or maintaining emission sources in operation before the effective date of this Part shall submit a detailed report including emission data, pertinent environmental factors and a proposed environmental rating so as to show conformity with this Part of proposed corrective measures and schedule for compliance. If this report is acceptable, the Commissioner will so notify the person operating or maintaining the emission source. If the report is not acceptable, the Commissioner will notify the person operating or maintaining the emisson source as to the reasons together with an environmental rating that is acceptable and a time schedule for compliance. Upon petition to the Commissioner within 30 days of such notice, the Commissioner shall grant a hearing to the petitioner.

c. Persons beginning or modifying operations after the effective date of this Part are required to submit to the Commissioner or his representative, either prior to* or concurrently with submission of plans and/or specifications, an appraisal of the items mentioned in table 1‡ in the form of a report including the proposed rating to be used for design purposes.

d. The Commissioner may seal any process equipment or prohibit any operation in accordance with a determination made under the provisions of Section 1282 of Article 12-A of the Public Health Law. The seal may be removed form the equipment only upon receipt of written notice from the Commissioner.

‡ See Appendix 4.

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*It is recommended that for large installations the report be submitted prior to submission of plans. Following approval of the preliminary report, final detailed plans and/or specifications will be completed and submitted to the Commissioner or his representative for approval.

APPENDIX 4

Table 1

Environmental Rating

Rating	
A	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants results, or would reasonably be expected to result, in serious adverse effects on receptors or the environment. These effects may be of a health, economic or aesthetic nature or any combination of these.
B	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants results, or would reasonably be expected to result, in only moderate and essentially localized effects; or where the multiplicity of sources of the contaminant or comtaminants in any given area is such as to require an overall reduction of the atmospheric burden of that contaminant or contaminants.
C	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants would reasonably be expected to result in localized adverse effects of an aesthetic or nuisance nature.
D	Includes processes, and exhaust and ventilation systems where, in view of properties and concentrations of the emissions, isolated conditions, stack height, and other factors, it can be clearly demonstrated that discharge of the contaminant or contaminants will not result in measurable or observable effects on receptors, nor add to an existing or predictable atmospheric burden of that contaminant or contaminants which would reasonably be expected to cause adverse effects.

The following items will be considered in making a determination of the environmental rating to be applied to a particular source:

a) properties, quantities and rates of the emission

b) physical surroundings of emission source

c) population density of surrounding area, including anticipated future growth

d) dispersion characteristics at or near source

e) location of emission source relative to ground level and surrounding buildings, mountains, hills, etc.

f) current or anticipated ambient air quality in vicinity of source

g) latest findings relating to effects of ground-level concentrations of the emission on receptors

h) possible hazardous side effect of contaminant in question mixing with contaminants already in ambient air

i) engineering guides which are acceptable to the Commissioner

TABLE 2

Usual Degree of Air Cleaning Required (1)

from

Processes, and Exhaust and Ventilation Systems

for

Gases and Liquid Particulate Emissions (Environmental Rating A and D)

and

Solid Particulate Emissions (Environmental Rating A and D)

Environmental Rating	EMISSION RATE POTENTIAL (LB/HR)									
	Less than 1.0	1 to 10	10 to 20	20 to 100	100 to 500	500 to 1,000	1,000 to 1,500	1,500 to 4,000	4,000 to 10,000	10,000 and Greater
A	See Note (2)	99% OR GREATER								
B	*		90-91%	91-94%	94-96%	96-97%		97-98%	98-99%	99% or Greater
C	*		70-75%	75-85%	85-90%	90-93%		93-95%	95-98%	98% or Greater
D	*									

* Degree of air cleaning may be specified by the Commissioner providing satisfactory dispersion is achieved.

(1) Where multiple emission sources are connected to a common air cleaning device, the degree of air cleaning required will be that which would be required if each individual emission source were considered separately.

(2) For an average Emission Rate Potential less than 1.0 lb/hr, the desired air cleaning efficiency shall be determined by the expected concentration of the air contaminant in the emission stream. Where it is uneconomical to employ air cleaning devices, other methods of control should be considered.

APPENDIX 4

TABLE 3

Allowable Emissions

from

Processes, and Exhaust and Ventilation Systems

for

Solid Particulates (Environmental Rating B & C)

Process Weight (lb/hr)	Maximum Weight Discharge*** (lb/hr)
100	.50
500	1.46
1,000	2.30
5,000	6.70
10,000	10.80
25,000	20.00
50,000	31.80
75,000	43.00
100,000 **	50.00
250,000 **	58.20
500,000**	64.30
750,000**	68.40
1,000,000**	71.10
2,000,000**	78.30
5,000,000**	88.10

* In cases where process weight is not applicable (such as grinding and woodworking) the concentration of solid particulates in the effluent gas stream shall not exceed 0.3 lb/1000 lb of undiluted exhaust gas at actual conditions.

** For process weights in excess of 100,000 lb/hr, the permissible maximum weight discharge may exceed tabular value if the concentration of particulate matter in the effluent gas stream is less than 0.1 lb/1000 lb of undiluted exhaust gas at actual conditions.

*** To determine intermediate values of maximum weight discharge:
for process weights up to 100,000 lb/hr use $E=0.024P^{0.665}$
for process weights in excess of 100,000 lb/hr use $E=39P^{0.082}-50$
where E=maximum weight discharge in lb/hr; P=process weight in lb/hr

(51.4) PART 213 CONTAMINANT EMISSIONS FROM FERROUS JOBBING FOUNDRIES

(2.0) Section 213.1 Applicability

This Part shall apply to all ferrous jobbing foundry cupolas and ferrous jobbing foundry open hearths in operation on or prior to the effective date of this Part and to subsequent modifications but not to production foundries or any new foundries.

(1.0) Section 213.2 Definitions

a. Foundry Cupola

A stack-type furnace used for melting of metals, consisting of, but not limited to, furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas cleaning devices and other auxiliaries.

b. Foundry Open Hearth

A furnace in which the melting and refining of metal is accomplished by the application of heat to a saucer type or shallow hearth in an enclosed chamber. Such furnace consists of, but is not limited to, the furnace proper, checkers, flues and stack and may include a waste heat boiler, an oxygen lance and other auxiliaries pertinent to the process.

c. Jobbing Foundry

Any foundry where operations run intermittently for just long enough at one time to pour the molds that are ready on the foundry floor, job by job.

d. Melt Time

The time in which the metal is melting and available at the spout or tap hole, excluding any time the equipment is idle, preheating or preparing for shut down.

e. Production Foundry

Any foundry where operations will run continuously to pour a succession of molds that are constantly being prepared to receive the continuous flow of iron, or any foundry where the process weight will exceed 50,000 lb/hr, or any operation where melt times are in excess of four hours per 24-hour period.

(2.0) Section 213.3 Prohibition

a. After January 1, 1971, no person shall cause, permit or allow the emission of air contaminants, which will exceed the limits specified in table 1*, from any ferrous jobbing foundry cupola or ferrous jobbing foundry open hearth in operation on or prior to the effective date of this Part, this prohibition to be applicable, also, to modifications made after the effective date of this Part, to such a cupola or open hearth.

b. The Commissioner may modify the limits specified in table 1*, if in view of the properties of the emissions, isolated conditions, stack height and other factors, it can be clearly demonstrated that discharge of the contaminant or contaminants will not result in measurable or observable effects on receptors, nor add to an existing or predictable atmospheric burden of such contaminant or contaminants so that adverse effects would reasonably be expected therefrom.

c. The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established air quality standards. In such cases the Commissioner may specify the degree of treatment required.

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* See Appendix 5

(51.2) PART 214 BY-PRODUCT COKE OVEN BATTERIES

(6.0) Section 214.1 Compliance Schedules

a. After October 31, 1972, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless the owner or operator has submitted an environmental analysis report and compliance schedule for acceptance by the Commissioner. Such reports shall include emission data, pertinent environmental factors and a proposed environmental rating to show conformity with Part 212. In the event of rejection, the Department shall issue an environmental rating and a compliance schedule for such source.

b. After May 31, 1974, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless it is in compliance with the schedule accepted or issued by the Commissioner.

(2.0) Section 214.2 Control Equipment

After December 31, 1974, or such later date as determined by an order of the Commissioner, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless such battery is equipped with control equipment, such as but not limited to, hood(s) and/or gas mover(s) capable of capturing, containing and collecting gaseous and particulate emissions resulting from distillation, charging and pushing of coke from such by-product coke oven battery. Such control equipment shall contain, collect and/or treat the captured and/or contained contaminants prior to discharge to the outdoor atmosphere so as not to exceed the permissible emission rate specified in Part 212.

(50.1.2) Section 214.3 Smoke Emissions

After December 31, 1974, or such later date as determined by an order of the Commissioner, no person shall operate a by-product coke oven battery which emits a smoke equal to Ringelmann #1 or 20% opacity. Such person who operates a by-product coke oven battery shall be allowed an emission of smoke from the battery of greater than Ringelmann #1 or 20% opacity if such emission continues for a period or periods aggregating no more than three minutes of any consecutive 60 minute period.

(50.2) Section 214.4 Sulfur Compound Emissions

After December 31, 1974, no person shall operate any by-product coke oven battery including auxiliary gas collecting and heating systems in such a manner as to emit, burn or flare process gas containing more than 50 grains of sulfur compounds (measured as hydrogen sulfide) per 100 standard cubic feet of gas.

(2.0) Section 214.5 Corrective Action

If the smoke emission from an oven door exceeds the emission limit under Section 214.3, the oven door shall be repaired or replaced and oven cracks shall be sealed prior to the next coking cycle which starts on the next daylight turn. Luted doors which leak smoke shall be reluted immediately.

(51.13) PART 215 OPEN FIRES

(1.0) Section 215.1 Definitions

a. Garbage

The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

b. Open Fire

Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere.

c. Refuse

All waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

d. Refuse Disposal Area

Land used for depositing of refuse except that it shall not include land used for depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any part of a farm on which only animal or vegetable wastes resulting from the operation of such farm are deposited. This definition includes, but is not limited to, those areas commonly referred to as landfills, sanitary landfills, and dumps.

e. Rubbish

Solid or liquid waste material, including but not limited to, paper and paper products; rags; trees, or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products; wood; sawdust, demolition materials; tires; and automobiles and other vehicles and parts, for junk, salvage, or disposal. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals, or offal.

(2.0) Section 215.2 Prohibitions.

Except as permitted by Section 215.3, no person shall burn, cause, suffer, allow, or permit the burning in an open fire:

a. of garbage;

b. of refuse at a refuse disposal area;

c. of rubbish for salvage;

d. for on-site disposal, of rubbish generated by residential activities in any city or village; or in any town with a total town population, including incorporated or unincorporated areas, of greater than 20,000;

e. for on-site disposal, of rubbish generated by industrial or commercial activities other than agricultural;

f. of rubbish generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, power or communication line, or pipeline; or for the development or modification of a recreational area or park;

g. of refuse during an air pollution episode, in an area for which such air pollution episode has been designated.

(51.13) Section 215.3 Restricted Burning

Burning in an open fire, provided it is not contrary to other law, will be permitted as follows:

a. Burning of land clearing and/or demolition material consisting of wood, trees, tree trimmings, leaves, or brush, generated by land clearing or demolition for the erection of any structure: for the construction or modification of any highway, railroad, pipeline, or power or communication line, or for the development or modification of a recreational area or park; provided that such burning is done on-site or at an appropriate designated burning area and in accordance with a permit issued by the Commissioner after written application. An application for such permit shall include the reasons why such burning should be permitted and such other information as may be required by the Commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the Commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the Commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning;

or the occurrence, or likely occurrence, of either air pollution or contravention of air quality standards as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety or to prevent serious air pollution, the permit may be suspended pending a hearing.

b. Burning at an appropriate designated burning area, serving a county, city, town, or village, of yard wastes consisting of trees, tree trimmings, leaves, and brush; provided that such burning is done in accordance with a permit issued by the Commissioner after written application. An application for such permit shall include the reasons why such burning should be permitted and such other information as may be required by the Commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the Commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the Commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning; or the occurrence, or likely occurrence of either air pollution or contravention of air quality standards. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

c. Burning, on-site, in areas of the State to be designated by the Commissioner, of paper, paper products, cartons, tree trimmings, leaves, or lawn and garden debris.

   1. The Commissioner will consider whether to designate such an area after petition by governing body of a county, city, village, or town within which such area would be located. Such petition shall include the geographical boundaries, population density, and meteorological characteristics of such area; the material to be burned; proposed control methods; and reasons why burning in an open fire should be allowed in such area.

   2. Such designation, if made, shall be by rule or regulation adopted in accordance with Section 15 of the Environmental Conservation Law. In designating such an area, the Commissioner will set forth any conditions deemed appropriate.

3. The Commissioner shall, from time to time, review air pollution safeguards in each designated area to determine whether the designation should be rescinded.

d. Burning at an appropriate designated site of toxic, explosive, or dangerous materials; provided that such burning is done only in accordance with a permit which will be issued by the Commissioner after written application if he determines that there is no other safe or economical method of disposal. Such permit will be for a specified period and shall contain such conditions as are deemed necessary in the interest of health or safety. Such permit may be revoked if there is: a failure to comply with its conditions; a violation of law in connection with the burning, or an apparent serious threat to health or safety as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

(50.1.2) PART 216 SMOKE

(1.0) Section 216.1 Definitions

a. Combustion Installation

A plant, equipment, or device in which fuel is burned for the purpose of generating heat, steam or hot water.

b. Commissioner

The Commissioner of Health of the State of New York.

c. Control Equipment

A device or process which is used to reduce the emission of smoke or gaseous or particulate contaminants.

d. Fuel

Solid, liquid, or gaseous combustible materials used primarily either to kindle or sustain fire or to produce heat, including refuse to be consumed in refuse-burning equipment.

e. Ringelmann Chart

The chart published and described in the U.S. Bureau of Mines Information Circular 7718, on which are illustrated graduated shades of gray for use in estimating the light obscuring density of smoke.

f. Smoke

Small gas-borne particles, consisting essentially of black carbonaceous material from the burning of fuel, in sufficient number to be observable.

(2.0) Section 216.2 Prohibition

a. No person shall operate any combustion installation which is first put into operation after February 1, 1967, so as to produce, emit or permit the escape of smoke regardless of how produced or discharged, of a shade of gray density darker than No. 1 on the Ringelmann Chart or equivalent standard, except as permitted in Section 191.3.

b. No person shall operate any combustion installation, which was in operation on or before February 1, 1967, so as to produce, emit or permit the escape of smoke, regardless of how produced or discharged, of a shade of gray density darker than No. 2 of the Ringelmann Chart or equivalent standard except as permitted in Section 191.3.

(2.0) Section 216.3 Exceptions

a. When building a new fire, tube blowing, or when a breakdown of equipment occurs which makes it evident that the emission was not reasonably preventable, smoke which is not greater than No. 3 of the Ringelmann Chart or equivalent standard may be emitted for a period or periods not exceeding three minutes in any 30-minute period.

b. Special equipment to prevent frost damage may be used in agricultural operations with the concurrence and approval of the full-time health officer.

c. Smoke may be emitted for purposes of training or research when approved by the Commissioner.

(2.0) Section 216.4 Abatement

a. The Commissioner may require the installation of smoke recording devices on any combustion installation where the density of smoke emission has repeatedly exceeded the permissible smoke density limits set forth in Section 191.2.

b. The Commissioner may require the installation of control equipment or devices to control any equipment which causes a violation of Section 191.2.

c. The Commissioner may order a change in the manner of operation of any fuel-burning equipment or other combustion installation which is operated so as to cause a violation of Section 191.2.

d. The Commissioner may order the cleaning, repair, replacement or alteration of any fuel-burning equipment, combustion installation or control equipment which causes or is operated so as to cause a violation of Section 191.2.

e. The Commissioner may seal any equipment which does not conform to the requirements of Section 191.2. The seal may be removed from equipment only upon receipt of written notice from the Commissioner stating that the equipment has been corrected to his satisfaction and that it may be restored to use or operation.

(12.0) PART 217 EMISSIONS FROM MOTOR VEHICLES PROPELLED BY GASOLINE ENGINES

(1.0) Section 217.1 Definitions

a. Aftermarket replacement (when used in connection with motor vehicle emission control devices or systems). A motor vehicle emission control device or system other than a direct replacement, installed as a substitute for the motor vehicle emission control device or system originally installed at the factory.

b. Crankcase

The three-dimensional space within a motor vehicle engine which is connected to the oil sump by internal passages through which gases can flow.

c. Crankcase Emissions

Air contaminants emitted or which may be emitted to the outer air through any opening in the engine crankcase.

d. Direct Replacement (when used in connection with motor vehicle emission control devices or systems).

A motor vehicle emission control device or system of the same design and resulting in at least as great reduction in air contaminant emissions as original equipment, and which is installed as a replacement for the motor vehicle emission control device or system originally installed at the factory.

e. Exhaust Emissions

Air contaminants emitted or which may be emitted to the outer air from any opening downstream from the exhaust ports of a motor vehicle engine.

f. Gasoline Motor Vehicle

A motor vehicle propelled by a gasoline spark ignition engine, except motorcycles, motor vehicles propelled by a two cycle spark ignition engine designated to burn a mixture of gasoline with oil, and special purpose commercial motor vehicles registered under Schedule F of Subdivision 7 of Section 401 of the Vehicle and Traffic Law.

g. Gasoline Motor Vehicle Exhaust Analysis System

A device for measuring the amount of air contaminants in the exhaust emissions from a gasoline motor vehicle. The device shall be a design and model approved by the Commissioner of Environmental Conservation.

h. Light Duty Motor Vehicle

A motor vehicle rated at 6,000 pounds gross vehicle weight or less.

i. Motor Vehicle

A vehicle which can travel on land and which is propelled by means other than human or animal muscular power, except such vehicles which run only on tracks or rails.

j. Motor Vehicle Emission Control Device or System

Equipment designed for installation of a motor vehicle for the purpose of reducing air contaminant emissions, or a system or engine modification on a motor vehicle which causes a reduction in air contaminant emissions from the vehicle.

k. Motor Vehicle Model Year

The production year of a new motor vehicle designated by the calendar year in which such period ends. If the motor vehicle manufacturer does not designate a production period, the motor vehicle model year shall mean the calendar year during which the motor vehicle was produced.

(12.0) Section 217.2 Crankcase Emissions

a. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in this state, manufactured or assembled after June 30, 1963, and known as a 1964, 1965, 1966, or 1967 model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system which will return at least 80% of weighted 7th decile crankcase emissions to the induction system.

b. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in the state, manufactured or assembled after June 30, 1967, and known as a 1968 or subsequent model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system which will return all the crankcase emissions to the induction system as originally required for certification by federal regulations.

c. No person shall replace a motor vehicle emission control device or system for control of crankcase emissions on a gasoline motor vehicle registered in this state with an aftermarket replacement unless the aftermarket replacement has been approved by the Commissioner.

d. No person shall sell or offer for sale an aftermarket replacement motor vehicle emission control device or system for control of crankcase emissions unless the aftermarket replacement has been approved by the Commissioner.

e. A manufacturer or vendor of a motor vehicle emission control device or system for control of crankcase emissions who seeks approval for aftermarket replacement sales shall submit to the Commissioner a report demonstrating compliance with the requirements for controlling crankcase emissions. Where applicable, previous criteria and test methods for approval of such motor vehicle emission control devices or systems for aftermarket replacement, in effect since September 13, 1963, shall continue in effect with these requirements. If the Commissioner finds the report acceptable, he shall issue a certificate of approval.

(12.0) Section 217.3 Exhaust Emissions

a. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in this state, manufactured or assembled after June 30, 1967, and known as a 1968 or subsequent model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system limiting exhaust emissions as originally required for certification by federal regulations or with an equivalent aftermarket device or system approved by the Commissioner.

b. No person shall sell or offer for sale an aftermarket replacement motor vehicle emission control device or system for control of exhaust emissions unless the aftermarket replacement has been approved by the Commissioner.

c. A manufacturer or vendor of a motor vehicle emission control device or system for control of exhaust emissions who seeks approval for aftermarket replacement sales shall submit to the

Commissioner a report demonstrating compliance with the federal exhaust emissions standards for the particular model year and gasoline motor vehicle engine-transmission-carburetor (injector) combination for which such motor vehicle emission control device or system is intended. The report shall include results of tests using the appropriate federal exhaust emission testing procedure by a laboratory acceptable to the Commissioner. The Commissioner may, however, request additional test data. If the Commissioner finds the report acceptable, he shall issue a certificate of approval.

d. No person who owns, operates or leases a light duty gasoline motor vehicle shall operate said vehicle or allow or permit it to be operated in such a manner that it emits carbon monoxide (CO) or hydrocarbons (HC) in the exhaust emissions in excess of the emission standards set forth in Table 1, when subjected to the test procedure prescribed in Subparagraphs (1) and (2).

1. With motor vehicle in neutral gear, all accessories off, hand brake secured, and engine running at idle, insert sampling probe of gasoline motor vehicle exhaust analysis system into the motor vehicle exhaust outlet.

2. The steady state levels measured as percent carbon monoxide and parts per million hydrocarbons (as hexane) in the exhaust emissions shall be the test results.

TABLE 1

Exhaust Emission Standards

Motor Vehicle Model Year	Exhaust Emission Control Type*	Effective Immediately		Effective January 1, 1974	
		CO(%)	HC(PPM)	CO(%)	HC(PPM)
1967 and earlier		7.5	1200	6.5	1000
1968 and 1969	A.I.	5.0	600	4.0	500
	E.M.	6.0	700	5.0	600
1970 and later	A.I.	4.0	450	3.0	350
	E.M.	5.0	700	4.0	450

*A.I. indicates air injection type emission control systems.

E.M. indicates engine modification type emission control systems.

(2.0) Section 217.4 Exemptions

a. Any person engaged in research or development of new or improved motor vehicle emission control devices or systems may remove or alter a state or federally approved device or system on a gasoline motor vehicle upon receiving a waiver from the Commissioner. The Commissioner shall grant the waiver if the applicant clearly demonstrates that the proposed device or system is based upon sound scientific principles and shows promise for reducing gasoline motor vehicle emissions.

(50.1.2) Section 217.5 Visible Emissions

No person shall operate a gasoline motor vehicle on a public highway in such a manner that visible emissions of a shade of blue, black or blue-black are produced for a continuous period of more than five seconds when the vehicle is in motion.

(12.0) Section 217.6 General Standards

In addition to all other requirements imposed by these standards, any system or device installed on or incorporated in a motor vehicle or motor vehicle engine to prevent or control air pollution therefrom shall not in its operation or function:

a. Cause the emission into the ambient air of any noxious or toxic matter that is not emitted in the operation of such motor vehicle or motor vehicle engine without such system or device, except as specifically permitted by these rules.

b. Result in any unsafe condition endangering persons or property including the motor vehicle and its occupants.

(12.0) PART 218 SMOKE EMISSIONS FROM DIESEL ENGINES

(50.1.2)

(2.0) Section 218.1 Applicability

This Part shall apply to all diesel engines, excluding marine diesels.

(2.0) Section 218.2 Prohibitions

a. No diesel engine operated in this State shall emit, for a period of more than five seconds, smoke which will reduce transmission of light by more than 20 percent, as determined by a procedure acceptable to the Commissioner.

b. No diesel engine which provides motive power in a bus or truck shall be allowed to idle more than three consecutive minutes when the bus or truck is not in motion, except as permitted by Section 193.3.

(2.0) Section 218.3 Exceptions

a. When a vehicle is forced to remain motionless because of traffic conditions over which the operator has no control, the prohibitions of Subdivision (b) of Section 193.2 shall not apply.

b. When regulations adopted by Federal, State or local agencies having jurisdiction require the maintenance of a specific temperature for passenger comfort, the idling limit specified in Subdivision (b) of Section 193.2 may be increased, but only to the extent necessary to comply with such regulations.

(51.9) PART 219 - INCINERATORS

(2.0) Section 219.1 Title

These rules shall be known as the New York State Rules to Prevent Air Pollution from Incinerators.

(2.0) Section 219.2 Applicable Geographical Area

This Part shall apply to the entire State of New York.

(1.0) Section 219.3 Definitions

a. Incinerator.

Any structure or furnace in which combustion takes place and type 0, 1, 2, 3, or 4 refuse is used as fuel, alone or in conjunction with fossil fuel.

b. Refuse

All waste material, including but not limited to, garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

c. Smoke

An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

(51.9) Section 219.4 Emission Limits

a. All incinerators having a capacity of 2,000 lb/hr or less and built and installed after January 1, 1968, shall be designed, built, installed and operated to meet the emission limits of figure 1*.

b. No incinerator larger than 2,000 lb/hr capacity and built after January 1, 1970, shall be operated so as to produce particulate emissions which exceed the amount shown in figure 1*.

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*See Appendix 3

c. No incinerator having a capacity of 2,000 lb/hr or less and built or installed between April 1, 1962, and January 1, 1968, shall be operated so as to produce particulate emissions which exceed 0.5 lb/hr for every 100 lb/hr of refuse charged, unless a final order by the Commissioner provides otherwise.

d. Any incinerator having a capacity of 2,000 lb/hr or less and built or installed prior to April 1, 1962, shall either meet the requirements of 194.4(c) or shall be equipped with adequate control devices or redesigned and rebuilt so as to meet the requirements of 194.4(a) by January 1, 1969.

e. No incinerator larger than 2,000 lb/hr capacity and built between April 1, 1962, and January 1, 1970, shall be operated so as to produce particulate emissions which exceed 0.5 lb/hr for every 100 lb/hr of refuse charged, unless a final order by the Commissioner provides otherwise.

f. Any incinerator larger than 2,000 lb/hr capacity and built prior to April 1, 1962, shall either meet the requirements of 194.4(e) or shall be equipped with adequate control devices or redesigned and rebuilt so as to meet the requirements of 194.4(b) by January 1, 1970.

(50.1.2) Section 219.5 Smoke Emissions

a. No incinerator, built or installed after January 26, 1967, regardless of size, shall emit smoke of an opacity denser than 20 percent or No. 1 of the Ringelmann Chart or equivalent, under normal operating conditions.

b. No incinerator built or installed prior to January 26, 1967, regardless of size, shall be operated so as to emit smoke of an opacity denser than 40 percent or No. 2 of the Ringelmann Chart or equivalent, under normal operating conditions.

(9.0) Section 219.6 Tests

a. All incinerators larger than 2,000 lb/hr capacity shall be tested using isokinetic sampling techniques in accordance with test procedures acceptable to the Commissioner.

b. All incinerators built or installed after January 1, 1968, and having a capacity of 2,000 lb/hr or less shall be tested in accordance with special test procedures promulgated by the commissioner. Units which are representative models may be tested instead of an actual installation, in accordance with special test procedures promulgated by the commissioner.

(2.0) Section 219.7 Abatement

a. Where the Commissioner has reason to believe that an incinerator installation is violating the emission standards of Section 194.4, he may have tests conducted. The owner shall provide, at his expense, sampling holes and pertinent allied facilities as needed, at the request of the Commissioner.

b. If such tests indicate a contravention of the emission limits, the Commissioner may requrre the installation of appropriate control equipment or he may seal the incinerator if such equipment is not installed within the time limit specified by the Commissioner.

c. The Commissioner may order the cleaning, repair, replacement or alteration of any equipment or control equipment which causes or is operated so as to cause a violation of this Part.

d. The Commissioner may order a change in the manner of operation of any incinerator which is operated so as to cause a violation of this Part.

(50.1) (51.3) PART 220 - PARTICULATE EMISSIONS FROM CEMENT AND LIGHTWEIGHT AGGREGATE INDUSTRY PYROPROCESSES

(2.0) Section 220.1 Applicability

a. This Part shall apply only to those pyroprocesses which were in operation at cement and lightweight aggregate manufacturing plants prior to the effective date of this Part and which, in or prior to such date, had control equipment enabling them to meet at least the emission standards prescribed in Table 1 of Section 195.3.

b. This Part shall not apply to those pyroprocesses which, on the effective date of this Part, meet the emission standards of Part 187.

c. The applicability of this Part shall terminate on January 1, 1981, and this Part shall not, thereafter, be of any force and effect with respect to any pyroprocess.

(50.1.1) Section 220.2

a. Process Weight

The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in a process is considered part of the process weight, but liquid and/or gaseous fuel, uncombined water and combustion air are not.

b. Process Weight per Hour

The total process weight divided by the number of hours in one complete operation from the beginning of a cycle to the completion thereof. For continuous processes, process weight should be determined on a daily basis.

c. Pyroprocesses

That part of cement and lightweight aggregate manufacturing related to the preheating, calcining, sintering, burning and cooling of clinker. Such processes include a means of chemically changing the material processed and do not include physical changes such as pearlite or shale expansion.

(2.0) Section 220.3 Prohibitions

a. No person shall cause, permit, or allow the emission of particulates to the outer air from any pyroprocess which exceeds the limits specified in Table 1.

b. After January 1, 1971, pyroprocesses covered by this Part shall meet the emission standards of Part 187 in accordance with a time schedule as shall be established by the Commissioner, except that all pyroprocesses shall meet the emission standards of Part 187 not later than January 1, 1981.

c. The provisions of this section shall not be construed to permit the emission of air contaminants in quantities which alone or in combination with other sources would contravene the standards appliable under the provisions of Subchapter C of Chapter IV of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

TABLE I

Particulate Emissions From Cement and Lightweight Aggregate Industry Pyroprocesses

Process Weight (lb/hr)	Maximum Emission Weight (lb/hr)
50,000	94
100,000	134
150,000	164
200,000	190
250,000	212
300,000	233
350,000	252
400,000	268
450,000	284

(9.0) Section 220.4 Testing, Sampling and Records

a. When testing for the applicability of and compliance with this Part is deemed necessary by the Commissioner, and the Commissioner requests such testing, the owner or operator must permit the Commissioner to have such testing done. This testing will be at the State's expense except as otherwise provided in Subdivision (b) of this Section.

b. Sampling holes and pertinent allied facilities as needed to conduct tests required in Subdivision (a) of this Section shall be requested inwriting by the Commissioner and shall then be provided at the expense of the owner or operator at such points as the Commissioner may request. If sampling holes, in addition to those used for testing dust collection equipment upon initial installation, are required, the cost of providing such additional holes shall be at the State's expense. The owner or operator shall provide, at his expense, a suitable power source and other suitable utilities necessary for the operation of sampling instruments. The Commissioner shall consult with the owner or operator with respect to the location of sampling holes.

c. Operation and maintenance records acceptable to the Commissioner shall be kept on file for a period of at least two years by the owner or operator of collection equipment on pyroprocesses. Such records shall be open to inspection by the Commissioner and shall include the dates and periods of time during which such collection equipment is inoperative or malfunctioning.

(51.3) PART 221 - ASBESTOS-CONTAINING SURFACE COATING MATERIALS

(2.0) Section 221.1 Applicability

This Part shall apply throughout the State of New York

(2.0) Section 221.2 Prohibition

No person shall engage in or allow surface coating by the spraying of asbestos or asbestos-containing materials.

(51.9) PART 222 - INCINERATORS - NEW YORK CITY, NASSAU AND WESTCHESTER COUNTIES

(2.0) Section 222.1 Applicability

This Part shall apply only to the City of New York and the counties of Nassau and Westchester.

(50.1) Section 222.2 Particulate Emissions

a. No person shall construct, install, use or cause to be used any incinerator the particulate emissions of which exceed the permissible particulate emission shown in Figure 1.

b. If two or more incinerators are connected to a single stack the total refuse charged to all incinerators connected to the same stack shall be the refuse charged for the purpose of determining the permissible particulate emission.

c. If a single incinerator is connected to two or more stacks the refuse charged to a single incinerator shall be the refuse charged for the purpose of determining the permissible particulate emission.

(50.1.2) Section 222.3 Smoke Emissions

No person shall construct, install, use or cause to be used any incinerator which emits smoke the shade or appearance of which is equal to or greater than

a. Number 1 on the Ringelmann Chart, or equivalent standard acceptable to the Commissioner, for a period of three (3) or more minutes during any continuous sixty (60) minute period, or

b. Number 2 on the Ringelmann Chart, or equivalent standard acceptable to the Commissioner, for any time period.

(50.6) Section 222.4 Odorous Emissions

a. No person shall construct, install, use or cause to be used any continuous fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400°F while the incinerator is in operation.

b. No person shall construct, install, use or cause to be used any batch fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400^{o}F during ninety percent of the burning period.

c. Incinerators with a capacity of 2,000 lbs/hr. or less of refuse charged shall be equipped with a sensing device indicating the gas temperature at the furnace outlet. Incinerators with a capacity of greater than 2,000 lbs/hr. of refuse charged shall be equipped with a sensing device and recorder to measure and record the temperature at the furnace outlet. A person who owns, operates, or maintains an incinerator with a capacity greater than 2,000 lbs/hr. of refuse charged shall retain recorder chart temperature records for a period of three years and shall make such charts available for inspection by the Commissioner or his representative during normal business hours.

d. Upon application, the Commissioner may modify the provisions of this Section where the applicant can show to the satisfation of the Commissioner that the odorous emission from his incinerator can be and is controlled with equivalent effectiveness.

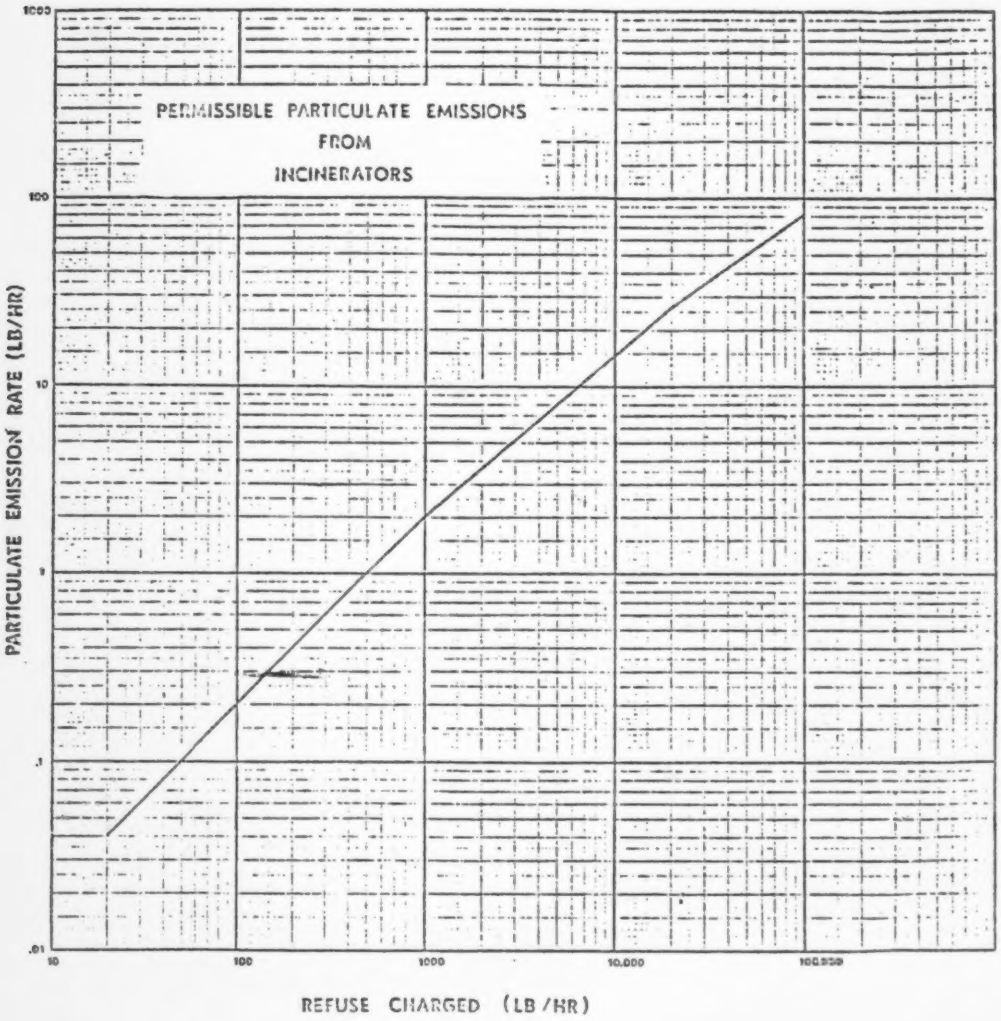
(51.9) Section 222.5 Representative Incinerator Models

In lieu of requiring a person who owns an incinerator, having a capacity of 2,000 lbs/hr. or less of refuse charged, to conduct a stack test and submit an acceptable emission test report, the Commissioner may accept emission test reports, submitted by such person or his authorized agent, of representative models which are geometrically similar and which demonstrate compliance with all sections of this Part. Testing of representative models shall be conducted in accordance with procedures established by the Commissioner.

(4.0) Section 222.6 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any established ambient air quality standard and/or cause air pollution.

FIGURE 1


PERMISSIBLE PARTICULATE EMISSIONS
FROM
INCINERATORS
PARTICULATE EMISSION RATE (LB/HR)
1000
100
10
1
.1
.01
10
100
1000
10,000
100,000
REFUSE CHARGED (LB/HR)

(51.15) PART 223 - PETROLEUM REFINERIES

(50.2) Section 223.1 Sulfur Compound Emissions

a. After December 31, 1974, no person shall operate any existing emission source of a petroleum refinery so as to emit, burn or flare process gas containing more than fifty (50) grains of sulfur compounds (measured as hydrogen sulfide) per hundred standard cubic feet of gas.

b. No person shall operate any new emission source in a petroleum refinery for which source an application for a Permit to Construct is submitted to the Commissioner subsequent to the effective date of this part, so as to emit, burn or flare process gas containing more than fifty (50) grains of sulfur compounds (measured as hydrogen sulfide) per hundred standard cubic feet of gas.

(2.0) Section 223.2 Exceptions

a. Flaring of process gas where it is necessary to relieve pressure systems during an operational upset.

b. Start-up procedures whereby the adjustment of process streams necessitates emergency flaring to relieve pressure.

c. Upon written application the Commissioner may exempt such person from the provision of Section 223.1 when it is determined that the emissions thus permitted will not cause a contravention of established ambient air quality standards or cause air pollution.

(51.6) PART 225 - FUEL COMPOSITION AND USE - NEW YORK METROPOLITAN AREA

(2.0) Section 225.1 Prohibitions

a. No person shall sell, offer for sale, purchase or use any fuel which contains sulfur in a quantity exceeding the following limitations:

1. oil with 0.75 percent sulfur by weight or coal with 0.60 pounds of sulfur per million BTU gross heat content, where such oil or coal is for use in any stationary combustion installation with a rated total heat input in excess of 250 million BTU per hour, for which installation an application for a permit to construct was received by the Department or an application for a certificate of environmental compatibility and public need was received by the Public Service Commission after March 15, 1973, and which installation is not located in New York City, Nassau, Rockland or Westchester County. If two or more furnaces are connected to a common air cleaning device and/or common stack, the total heat input for such stationary combustion installation shall be the sum of the total heat input of all furnaces which are operated simultaneously and connected to the common air cleaning device and/or common stack.

2. gaseous fuel with 50 grains of sulfur compounds (expressed as hydrogen sulfide) per 100 dry standard cubic feet of gas.

3. as otherwise specified in Table 1.

b. No person who changes from the use of fuel oil or gas to coal in his air contamination source shall purchase for or use in such source, coal with a sulfur content (in pounds per million BTU) which is in excess of the product of 0.55 times the maximum sulfur content for oil (in percent by weight) permitted by this Part for such source.

(2.0) Section 225.2 Special Limitations Contingent Upon Air Quality

a. Special limitations promulgated pursuant to this section shall not apply to fossil fuel-fired steam generators which are subject to Title 40, Part 60, Subpart D of the Code of Federal Regulations (Standards of Performance for New Stationary Sources).

b. The Commissioner may promulgate special limitations that permit the sale, offering for sale, purchase and use of oil with a sulfur content not to exceed 3.0 percent by weight and/or solid fuel with a sulfur content not to exceed 2.8 pounds per million BTU gross heat content for air contamination sources which do not have a rated total heat input in excess of 250 million BTU per hour in an area where all applicable ambient air quality standards for sulfur dioxide are being met and where the Commissioner has determined that the use of such fuel in all air contamination sources in such area would not contribute to the contravention of such standards nor significantly degrade air quality. Such promulgation shall be filed with the Secretary of State.

c. The Commissioner may promulgate special limitations that permit the sale, offering for sale and purchase of oil with a sulfur content not to exceed 3.0 percent by weight and/or solid fuel with a sulfur content not to exceed 2.8 pounds per million BTU gross heat content and the use of such fuel in an air contamination source with a rated total heat input in excess of 250 million BTU per hour where the owner of such source shows to the Commissioner's satisfaction, by acceptable diffusion analysis, that such use would not contribute to the contravention of any applicable federal ambient air quality standard nor significantly degrade air quality. Such promulgation shall be filed with the Secretary of State. The Commissioner may require further conditions on such special limitations, including but not limited to the following:

   1. Maintenance of a continuous monitoring network for sulfur compounds (expressed as sulfur dioxide) surrounding the source, which network is acceptable to the Commissioner.

   2. Employment of a system for prompt switching to fuel with a sulfur content specified by the Commissioner when continuous monitoring indicates that State ambient air quality standards may, in the opinion of the Commissioner, otherwise be exceeded.

(2.0) Section 225.3 Exceptions Contingent Upon Fuel Shortage

a. Upon application by an air contamination source owner or a fuel supplier, or upon his own initiative, the Commissioner may, by order, except persons from the provisions of this

Part, for periods not exceeding one year, where it is shown to the Commissioner's satisfaction that there is an insufficient supply of conforming fuel

1. of the proper type required for use in a particular air contamination source, or

2. generally throughout an area of the State.

Insufficiency of the supply of fuel must be certified by the Chairman of the Public Service Commission.

b. The Commissioner may, prior to certification of shortage by the Chairman of the Public Service Commission and prior to the public hearing provided by Section 225.4, by order, except from the provisions of this Part, for a period not exceeding 45 days.

   1. a person who submits an affidavit stating that there is an insufficient supply of conforming fuel of the proper type required for use in such person's air contamination source, or

   2. persons in a specified area of the State where the Commissioner has evidence that there is an insufficient supply of fuel generally throughout such area.

   When the Commissioner determines that a delay in issuing such exception would be detrimental to the public health or welfare. Where such exception is granted, the notice of public hearing provided by Section 225.4 shall be published within three days of the issuance of such exception, and such hearing shall be held in accordance with the provisions of applicable federal regulations.*

(16.0) Section 225.4 Public Hearings

a. The Commissioner will hold a public hearing, in accordance with the provisions of Section 51.4 of Title 40 of the Code of Federal Regulations, for each special limitation and exception pursuant to Sections 225.2 and 225.3.

b. For hearings on exceptions, the applicant shall publish notice of such hearing, in such form as the Commissioner shall determine, in a newspaper of general circulation in the affected area for which such exception is sought and shall bear the cost of publication. The cost of the transcript of such hearing and the rental of space in which such hearing is conducted shall be paid for by the applicant.

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*Section 51.4 of Title 40 of the Code of Federal Regulations

(2.0) Section 225.5 General Exceptions

a. Fuel mixtures:

1. Fuels with a sulfur content in excess of that permitted by this Part may be sold, offered for sale, purchased and used when it can be demonstrated, to the Commissioner's satisfaction, that the resulting maximum and three-month average emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmpsphere would not exceed the product of the total heat input multiplied by the allowable rate of sulfur dioxide emission(s) calculated according to the following equation:

$$S = \frac{2YA + 2\ ZB}{Y + Z}$$

Where: S = Allowable rate of sulfur dioxide emission (in pounds per million BTU).

Y = Percent of total heat input from liquid fossil fuel.

Z = Percent of total heat input from solid fossil fuel.

A = Sulfur content of oil in percent by weight permitted by this Part multiplied by 0.55.

B = The sulfur content of coal in pounds of sulfur per million BTU permitted by this Part.

2. No exception pursuant to this Subdivision shall be granted for coal and fuel oil burned with process gas, such as blast furnace, coke oven or petroleum refinery gas.

b. Equivalent emission rate:

In the following cases, the Commissioner may, by order, except from the fuel sulfur content restrictions imposed by this Part a person establishing to the Commissioner's satisfaction that the fuel use thus permitted would not result in the emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmosphere at a rate greater than would result through the use of fuels otherwise mandated:

1. where fuel would be used as a process constituent, or
2. where approved contol equipment is installed, or
3. where a sufficient portion of the sulfur in the fuel would be retained in the ash.

c. Experiments:

Upon application, the Commissioner may, by order, permit the sale, offering for sale, purchase and use of fuel having a sulfur content in excess of the limits imposed by this Part, where such fuel would be used to demonstrate the performance of experimental equipment and/or process(es) for removal of sulfur compounds from stack emissions.

d. Coal and coke:

Until June 30, 1975, in the City of New York and the Counties of Nassau, Rockalnd, Suffolk and Westchester, for those installations where coal or coke has been the regular fuel continuously since December 31, 1967, the Commissioner will permit the sale and the continued, but not increased, purchase and use of such fuel, upon application, irrespective of the sulfur content of such fuel.

(9.0) Section 225.6 Emission and Fuel Monitoring

a. The provisions of this section shall apply to the owners of the following stationary combustion installations with a rated total heat input in excess of 250 million BTU per hour, except where gaseous fuel is the only fuel burned in such installation or where representative sampling and sulur analyses of fuel used in such installation are conducted daily in a manner approved by the Commissioner:

1. any such installation when so requested by the Commissioner.
2. installations for which an application for a permit to construct was received by the Department or an application for a certificate of environmental compatibility and public need was received by the Public Service Commission after March 15, 1973.

b. Such owner shall install at each stack, and operate in accordance with manufacturer's instructions, instruments approved by the Commissioner for continuously monitoring and recording sufur compound emissions (expressed as sulfur dioxide) from such installation at all times that the combustion installation is in service.

c. Such owner shall measure the rate of each fuel burned daily and shall determine, at least once per week, the gross heat content and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

d. Such owner shall record and maintain a file of such measurements and operating data as may be required by the Commissioner, and shall tabulate and summarize such measurements and operating data in a format acceptable to the Commissioner. Such persons shall retain records and summaries for at least three years and, upon request of the Commissioner, shall furnish such records and summaries.

(13.0) (9.0) Section 225.7 Reports, Sampling and Analysis

a. The Commisioner may require an owner of an air contamination source to retain for up to three years, and to submit to him, fuel analyses, information on the quantity of fuel received, burned or sold, and results of stack sampling, stack monitoring and other procedures to ensure compliance with the provisions of this Part.

b. Persons selling fuels shall maintain and retain, for three years, records of quantities and fuel analyses for all fuel received by them and records of fuel buyers, quantities sold and fuel analyses for all coal and oil sold, and shall make these records available for inspection by the Commissioner, or his representative, during normal business hours.

c. Sampling, compositing and analysis of fuel samples shall be carried out in accordance with the most recent applicable ASTM standards or other methods acceptable to the Commissioner.

TABLE I

PART 225

MAXIMUM PERMITTED SULFUR CONTENT EXPRESSED IN PERCENT BY WEIGHT FOR OIL AND POUNDS PER MILLION BTU GROSS HEAT CONTENT FOR SOLID FUEL

	New York City		Nassau, Rockland & Westchester Counties		Suffolk County towns of Babylon, Brookhaven, Huntington, Islip & Smithtown		Erie & Niagara Counties		Rest of State	
Effective Date	Oil	Solid Fuel	Oil	Solid Fuel	Oil	Solid Fuel	Oil	Solid Fuel	Oil	Solid Fuel
As of Effective Date of this Part	0.30 0.20 Distillate	0.20	0.37	0.20	1.0	0.6	2.2	2.8 Maximum 2.0 Average*	2.0	2.5 Maximum 1.9 Average*
October 1, 1974								1.7 Maximum 1.4 Average*		
October 1, 1975							1.1			

* Averages shall be computed for each stationary air contamination source or emission source by dividing the total sulfur content by the total gross heat content of all solid fuel received during any consecutive three-month period.

NOTE: Certain installations rated at more than 250 million BTU per hour are restricted to use of 0.75 percent oil and 0.60 pound per million BTU coal. See 225.1 (a)(1).

(51.6) PART 226 - FUEL COMPOSITION AND USE - STATIONARY AIR CONTAMINATION SOURCES

(2.0) Section 226.1 Applicability.

This part shall apply to all areas of New York State except the New York City Metropolitan Area, consisting of the five counties within the City of New York, as well as the counties of Nassau, Suffolk, Rockland and Westchester.

(2.0) Section 226.2 Prohibitions.

a. No person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source, fuel oil containing more than 1.65 pounds of sulfur per million BTU gross heat content.

b. No person shall sell, offer for sale, purchase for use or use in any stationary air contamination source, coal having a sulfur content exceeding 2.8 pounds per million BTU gross heat content, provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source shall not exceed 2.0 pounds per million BTU gross heat content.

c. After December 31, 1973, no person shall sell, offer for sale, purchase for use in or in any stationary air contamination source, fuel oil containing more than 1.1 pounds of sulfur per million BTU gross heat content.

d. After December 31, 1973, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source, coal containing more than 1.35 pounds of sulfur per million BTU gross heat content.

e. After December 31, 1973, and until October 1, 1975, when the prohibitions of Part 230 become applicable, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source located in Erie and Niagara Counties, fuel oil containing more than 1.2 pounds of sulfur per million BTU gross heat content.

f. After December 31, 1973, and until October 1, 1974, when the prohibitions of Part 230 become applicable, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source located in Erie and Niagara Counties, coal having a sulfur content exceeding 2.8 pounds per million BTU gross heat content, provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source shall not exceed 2.0 pounds per million BTU gross heat content.

g. No person shall use in any stationary combustion installation rated at more than 250 million BTU per hour total heat input which was constructed or modified so as to increase the amount of sulfur compounds emitted to the outdoor atmosphere and for which a permit to construct has been submitted subsequent to the effective date of this Part, fuel oil having a sulfur content of more than 0.40 pounds of sulfur per million BTU gross heat content or coal having a sulfur content of more than 0.60 pounds of sulfur per million BTU gross heat content. If two or more furnaces are connected to a common air cleaning device and/or common stack, the total heat input for such stationary combustion installation shall be the sum of the total heat input of all furnaces operated simultaneously which are connected to the common air cleaning device and/or common stack.

h. No person shall change from fuel oil to coal in such a way that the amount of sulfur compounds emitted from his air contamination source to the outdoor atmosphere will be increased.

(2.0) Section 226.3 Exceptions.

a. Fuels with a sulfur content in excess of that permitted by Section 226.2 may be sold, offered for sale, purchased and used when it can be demonstrated to the Commissioner's satisfaction that the resulting emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmosphere does not exceed the rate(s) as calculated using the following equation:

$$S = \frac{2YA + 2ZB}{Y + Z}$$

Where: S = Allowable rate of sulfur dioxide emission (expressed in pounds per million BTU).

Y = Percent of total heat input from liquid fossil fuel.

Z = Percent of total heat input from solid fossil fuel.

A = Allowable sulfur content in pounds of sulfur per million BTU provided by Section 226.2 for oil.

B = Allowable sulfur content in pounds of sulfur per million BTU provided by Section 226.2 for coal.

b. Upon application, the Commissioner shall permit a person to sell, offer for sale, purchase for use or use fuels with a sulfur content in excess of that specified in 226.2 provided that such person demonstrates that by other means the emission rates of sulfur compounds (expressed as sulfur dioxide) will not be greater than would be obtained through the use of fuels otherwise mandated.

c. Upon application, the Commissioner may except from the provisions of Section 226.2 a person who can demonstrate to the Commissioner's satisfaction that there is an insufficient supply of fuel. In each case, the insufficiency of the supply of fuel must be certified by the Chairman of the Public Service Commission.

d. Upon application, the Commission may permit the sale, offer for sale, purchase and use of fuel having a sulfur content in excess of that specified in Section 226.2 provided such fuel is used to demonstrate the performance of experimental equipment and/or process for removal of sulfur compounds from stack emissions.

e. Except as required by Section 226.2(g), substitution of coal for fuel oil or gas is permissible only if the total sulfur content divided by the total gross heat content of all coal received during any consecutive three-month period does not exceed 1.1 pounds per million BTU gross heat content.

f. Coal having a sulfur content not exceeding 2.5 pounds per million BTU gross heat content may be sold, offered for sale, purchased for use in or used in any stationary air contamination source provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source does not exceed 1.85 pounds per million BTU gross heat content.

(13.0) Section 226.4 Reports, Sampling and Analysis.

(9.0) a. Upon the request of the Commissioner, any person buying coal or fuel oil shall obtain and retain for three years, records of fuel analyses, monthly quantity of fuel received or burned, and results of stack sampling or stack monitoring, or other test procedures intended to verify compliance with this Part. Such person shall furnish the Commissioner with such records upon request.

b. Any person selling coal or fuel oil shall retain for one year a record of the identity of each buyer, quantity and sulfur content of such fuels, and upon the request of the Commissioner, shall furnish him with such records.

c. Sampling, compositing and analysis of coal and fuel oil shall be carried out in accordance with the most recent applicable ASTM standard methods or equivalent methods acceptable to the Commissioner.

d. Commencing June 30, 1973, and semi-annually thereafter all major fuel distributors must submit to the Commissioner a report on the progress in carrying out the provisions of this regulation.

(9.0) Section 226.5 Emission and Fuel Monitoring.

a. Effective July 1, 1973, any person who owns a stationary combustion installation rated at more than 250 million BTU per hour input and which burns coal and/or fuel oil shall install at each stack and operate in accordance with manufacturer's instructions, and instrument approved by the Commissioner, for continuously monitoring and recording sulfur dioxide emissions.

b. Any person required under this section to monitor stack emissions shall measure the rate of each fuel burned daily and shall determine at least once per week the gross heating value and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

c. Any person subject to the provisions of this section shall record and maintain a file of all measurements required by this Section and shall tabulate and summarize such measurements in a format acceptable to the Commissioner. Such person shall retain records and summaries for at least three years and, upon the request of the Commissioner, shall furnish him with such records and summaries.

d. Upon application, the Commissioner may exempt in whole or in part from the stack monitoring requirements of this section any source owner who conducts fuel sampling daily in accordance with Section 226.4(c).

(51.5) PART 227 - STATIONARY COMBUSTION INSTALLATIONS

(51.7) (51.5) Section 227.1 Bituminous Coal

No person shall construct, install or modify, or cause to be constructed, installed or modified, within New York State, any stationary combustion installation designed to burn bituminous coal, hand fired.

(50.1) Section 227.2 Particulate Emissions

a. Except as required under Section 227.2b, no person shall cause, permit, or allow to be emitted into the outdoor atmosphere from any stationary combustion installation burning coal and/or wood, particulates in excess of the permissible emission rates specified in Table 1. The total heat input under normal operating conditions shall be used to determine the permissible emission rate. If two or more furnaces are connected to a common air cleaning device and/or stack, the total heat input of all furnaces connected to the device and/or stack shall be the heat input for the purpose of computing the permissible emission rate. If two or more furnaces having individual air cleaning devices are connected to a single stack, the permissible emission rate shall be the sum of the permissible emission rate from each furnace.

b. No person shall cause, permit, or allow a two hour average emission into the outdoor atmosphere of particulates in excess of 0.10 pound per million BTU heat input from:

   1. any oil fires stationary combustion installation, or

   2. any coal fires stationary combustion installation of more than 250 million BTU per hour total heat input for which an application for a Permit to Construct is submitted subsequent to the effective date of this Part.

c. Upon written application, the Commissioner may exempt a person from the provisions of this section, when in view of the properties of the emissions, isolated conditions, stack height and other factors, it is clearly demonstrated that the emission thus permitted will not cause a contravention of established ambient air quality standards.

(50.1.2) Section 227.3 Smoke Emissions

a. No person shall construct, install, use or cause to be used a stationary combustion installation which emits smoke the shade or appearance of which is equal to or greater than

1. Number 1 on the Ringelmann Chart, or twenty (20) percent opacity, for a period of three (3) or more minutes during any continuous sixty (60) minute period, or

2. Number 2 on the Ringelmann Chart for forty (40) percent opacity, for any time period.

b. Startup and emergency emissions in excess of those allowed under Section 227.3(a) may be excepted by the Commissioner upon demonstration by the source owner that such excessive emissions were not preventable.

(50.3) Section 227.4 Nitrogen Oxides

No person shall cause or allow to be emitted to the outdoor atmosphere from any stationary combustion installation of more than 250 million BTU per hour total heat input which was:

a. constructed or

b. modified so as to increase the amount of air contaminants emitted and for which a permit to construct has been submitted subsequent to the effective date of this Part, more than:

1. 0.70 pound per million BTU heat input for a maximum 2-hour average when solid fuel is burned.

2. 0.30 pound per million BTU heat input for a maximum 2-hour average when fuel oil is burned.

3. 0.20 pound per million BTU heat input for a maximum 2-hour average when gaseous fuel is burned.

(9.0) Section 227.5 Stack Monitoring

a. Any person who owns a stationary combustion installation of more than 250 million BTU per hour total heat input shall install and operate in accordance with manufacturer's instructions, instruments, approved by the Commissioner, for continuously monitoring and recording smoke from such installations at all times that the combustion installation is in service. Where gas is the only fuel burned, monitoring and recording of smoke is not required.

b. Any person required to control nitrogen oxides in accordance with Section 227.4 shall install and operate in accordance with manufacturer's instructions, instruments approved by the Commissioner for continuously monitoring and recording nitrogen oxides from such installations at all times that the stationary combustion installation is in service.

c. Any person required under this section to monitor stack emission shall determine the average rate of each fuel burned daily and shall determine at least once per week, the gross heating value and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

d. Any person subject to the provisions of this section shall record and maintain a file of such measurements and operating data, as may be required by the Commissioner, and shall tabulate and summarize such measurements and operating data in a format acceptable to the Commissioner. Such person shall retain records and summaries for at least three years, and upon request of the Commissioner shall furnish such records and summaries.

(2.0) Section 227.6 Fuel Mixtures

When two or more different fuels are burned simultaneously in a single furnace of a stationary combustion installation, the permissible emission rate shall be the sum of the permissible emission rate for each fuel multiplied by BTU input derived from that fuel.

(2.0) Section 227.7 Corrective Action

a. Any person found to have violated any provision of this Part shall not cause, permit or allow operation of the stationary combustion installation involved in the violation unless

1. it is equipped with approved emission control equipment or

2. it is rehabilitated or upgraded in an approved manner or

3. the fuel is changed to an acceptable type.

b. The Commissioner may seal such stationary combustion installation so as to prevent any operation if the conditions of subdivision 1, 2 and 3 of paragraph 227.7a are not met within the time provided by the order of final determination issued in the case of the violation.

c. No person shall cause, permit or allow operation of any stationary combustion installation sealed by the Commissioner in accordance with this section.

d. No person except the Commissioner or his representative shall remove, tamper with or destroy any seal affixed to any stationary combustion installation in accordance with this section.

(2.0) Section 227.8 General

a. Emission Data

Any person who owns or operates a stationary combustion installation described in Section 227.2 and 227.4 shall provide pertinent data concerning emission, when so requested by the Commissioner.

b. Test Methods

Sampling, compositing, and analysis of fuel samples shall be carried out in accordance with the most recent ASTM standard methods or equivalent methods acceptable to the Commissioner.

(4.0) Section 227.9 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which, alone or in combination with emissions from other sources, would contravene any established standard for the quality of the ambient air, or would cause air pollution.

(1.0) Section 227.10 Definitions

a. "Opacity" means the degree to which emissions other than condensed water reduce the transmission of light and obscrue the view of an object in the background.

TABLE I

Permissible Emission Rates for Stationary Combustion Installations Burning Solid Fuel

Total Heat Input (million BTU/hr)	Permissible Emission Rate** (lb/million BTU)
*	
1 to 10	0.600
20	0.550
30	0.500
40	0.450
50	0.440
60	0.420
70	0.400
80	0.390
90	0.380
100	0.370
200	0.320
300	0.290
400	0.275
500	0.262
600	0.252
700	0.242
800	0.236
900	0.230
1,000	0.225
2,000	0.193
3,000	0.177
4,000	0.166
5,000	0.158
6,000	0.152
7,000	0.147
8,000	0.142
9,000	0.139
10,000	0.136

*(a) Installations having a total heat input less than one million BTU/hr are exempted.

**(b) Total heat input between 10-10,000 million BTU/hr:
use $E = .02/p^{219}$ to determine the permissible emission rate where
E = permissible emission rate in lb/million BTU
P = total heat input in million BTU/hr

(c) Individual combustion installations with a total heat input equal to or less than 300 million BTU/hr and in operating prior to June 1, 1972, may exceed the values in Table I provided they meet the following criteria:

1. Spreader stokers - Permissible emission rate shall not exceed 0.60 lb/million BTU input.

2.

Total Heat Input (million BTU/hr)	Permissible Emission Rate (lb/million BTU)***
1 - 100	0.60
200	0.45
300	0.30

***Calculate intermediate values by linear interpretation.

(51.6) PART 230 - FUEL COMPOSITION AND USE - NIAGARA FRONTIER

(2.0) Section 230.1 Applicability

This Part shall apply only to Erie and Niagara counties.

(2.0) Section 230.2 Prohibitions

a. After October 1, 1974, no person shall sell, offer for sale, purchase for use in, or use in any stationary combustion installation, process or incinerator coal having a sulfur content exceeding 1.7 pounds per million BTU gross heat content provided that the weighted average for all coal received by a purchaser during a three month period does not exceed 1.4 pounds sulfur per million BTU gross heat content.

b. After October 1, 1974, no person shall sell, offer for sale, purchase for use in, or use in any stationary combustion installation, process or incinerator fuel oil having a sulfur content exceeding 0.60 pounds per million BTU gross heat content.

(2.0) Section 230.3 Exceptions

a. Upon application, the Commisioner may permit the sale, offer for sale, purchase or use of fuels with sulfur content in excess of that specified in Section 230.2, where approved control equipment is installed which limits the emission rate of sulfur compounds (expressed as sulfur dioxide) to a level less than or equivalent to that which would obtain through the use of fuels otherwise mandated.

b. Upon application, the Commissioner may permit the sale, offer for sale, purchase and use of fuel having a sulfur content in excess of that specified in Section 230.2, provided such fuel is used to demonstrate the performance of experimental equipment and/or processes for removal of sulfur compounds from stack emissions.

c. Upon application, the Commissioner may exempt a person from the provisions of Section 230.2 in a stationary combustion installation, process or incinerator where a substantial portion of the sulfur content of the fuel is retained in the ash and not emitted to the outdoor atmosphere, provided that the emission rate of sulfur compounds (expressed as sulfur dioxide) will not exceed an emission level which would obtain through the use of fuels otherwise mandated.

d. Upon application, the Commissioner may exempt a person from the provisions of Section 230.2, where the applicant can show to the satisfaction of the Commissioner that there is an insufficient supply of fuel suitable for a stationary combustion installation, process or incinerator in operation prior to January 1, 1973, and that the emissions from such stationary combustion installation, process or incinerator will not tend to cause an ambient air quality standard to be exceeded.

(6.0) Section 230.4 Compliance

a. The Commissioner may require submission of fuel analyses, information on the monthly quantity of fuel received or burned and/or results of stack sampling and other procedures to ensure compliance with the provisions of this Part, and no person shall fail to submit such when requested to do so by the Commissioner.

b. Persons selling fuels shall maintain records of fuel buyers, quantities sold and fuel analyses for sales of all coal and fuel oil and shall make these records available for inspection by the Commissioner or his representative during normal business hours.

c. Sampling, compositing and analysis of fuel samples shall be carried out in accordance with the most recent ASTM standard methods or equivalent methods acceptable to the Commissioner.

(4.0) Section 230.5 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which alone or in combination with emissions from other sources would contravene any established ambient air quality standard or cause air pollution.

FEDERALLY PROMULGATED
REGULATIONS

(6.0) 52.1677 Compliance Schedules

d. Federal Compliance Schedules

1. The owner or operator of any boiler or furnace of more than 250 million BTU per hour heat input subject to the requirements of section 225.3(c) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations shall notify the Administrator, no later than October 1, 1973, of his intent to utilize either low-sulfur or stack gas desulfurization to meet the requirements of said regulation.

2. Any owner or operator of a stationary source subject to paragraph (d) (1) of this section who elects low-sulfur fuel shall be subject to the following compliance schedule:

   (i) November 1, 1973 - Submit to the Administrator a projection of the amount of fuel, by types, that will be substantially adequate to enable compliance with section 225.3(c) of the codes, rules, and regulations cited in paragraph (d) (1) of this section on June 30, 1975, and October 1, 1975, respectively, and for at least one year thereafter.

   (ii) December 31, 1973 - Sign contracts with fuel suppliers for fuel requirements as projected above.

   (iii) January 31, 1974 - Submit a statement as to whether boiler modifications will be required. If modifications will be required, submit plans for such modifications.

   (iv) March 15, 1974 - Let contracts for necessary boiler modifications, if applicable.

   (v) June 15, 1974 - Initiate onsite modifications, if applicable.

   (vi) February 28, 1975 - Complete onsite modifications, if applicable.

   (vii) June 30, 1975 - Final compliance with the low-sulfur fuel requirements of section 225.3 (c) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

b. October 1, 1975 - Final compliance with the low-sulfur fuel requirements of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

3. Any owner or operator of a stationary source subject to subparagraph (1) of this paragraph who elects to utilize stack gas desulfurization shall be subject to the following compliance schedule:

   (i) November 1, 1973 - Let Necessary contracts for construction.

   (ii) March 31, 1974 - Initiate onsite construction.

   (iii) February 28, 1975 - complete onsite construction.

   (iv) (a) June 30, 1975 - Final compliance with the requirements of section 225.3 (c) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

   (b) October 1, 1975 - Final compliance with the requirements of subchapter A, title 6 of New York State's official compilation of codes, rules, and regulations.

   (v) If a performance test is necessary for a determination as to whether compliance with subpart (3) (iv) (a) or (b) has been achieved, such a test must be completed by June 30, 1975, or October 1, 1975, respectively. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

4. The owner or operator of any boiler or furnace of more than 250 million BTU per hour heat input subject to the requirement of section 230.2(d) of subchapter A, chapter III, title 6 of the New York State's official compilation of codes, rules, and regualtions shall notify the Administrator no later than October 1, 1973, of his intent to utilize either low-sulfur fuel or stacb gas desulfurization to meet the requirements of said regulation.

5. Any owner or operator of a stationary source subject to subparagraph (4) of this paragraph who elects low-sulfur fuel shall be subject to the following compliance schedule:

(i) November 1, 1973 - Submit to the Administrator a projection of the amount of fuel, by types, that will be substantially adequate to enable compliance with section 230.2(d) of the codes, rules, and regulations cited in subparagraph (4) of this paragraph on October 1, 1974, and for at least one year thereafter.

(ii) December 31, 1973 - Sign contracts with fuel suppliers for fuel requirements as projected above.

(iii) January 31, 1974 - Submit a statement as to whether boiler modifications will be required. If modifications will be required, submit plans for such modifications.

(iv) March 15, 1974 - Let contracts for necessary boiler modifications, if applicable.

(v) June 15, 1974 - Initiate onsite modifications, if applicable.

(vi) September 3, 1974 - Complete onsite modifications, if applicable.

(vii) October 1, 1974 - Final compliance with the low-sulfur fuel requirements of section 230.2(d) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

6. Any owner or operator of a stationary source subject to subparagraph (5) of this paragraph who elects to utilize stack gas desulfurization shall be subject to the following compliance schedule:

(i) November 1, 1973 - Let necessary contracts for construction.

(ii) December 31, 1973 - Initiate onsite construction.

(iii) September 1, 1974 - Complete onsite construction.

(iv) October 1, 1974 - Final compliance with the requirements of section 230.2(d) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

(v) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by October 1, 1974. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

7. The owner or operator of any petroleum refinery subject to the requirements of section 223.1(a) of subchapter A, chapter III, title 6 of New York State's official compliliation of codes, rules, and regulations shall comply with the compliance schedule in subparagraph (8) of this paragraph.

8. Any owner or operator of a petroleum refinery subject to subparagraph (7) of this paragraph shall be subject to the following compliance schedule:

   (i) November 1, 1973 - Submit final control plan to the Administrator.

   (ii) February 28, 1974 - Let necessary contracts for construction or installation of emission control equipment.

   (iii) June 30, 1974 - Initiate onsite construction or installation of emission control equipment.

   (iv) November 30, 1974 - Complete onsite construction or installation of emission control equipment.

   (v) December 31, 1974 - Final compliance with the requirements of 223.1(a) of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

9. The owner or operator of any coke oven battery subject to the requirements of part 214, sections 214.2 and 214.4, of subchapter A, chapter III, title 6 of the New York State's official compilation of codes, rules, and regulations for a facility with an environmental rating B as determined by part 212 of subchapter A, chapter III, title 6 of the New York State's official compilation of codes, rules, and regulations, shall comply with the compliance schedule in subparagraph (10) of this paragraph.

10. Any owner or operator of a coke oven battery subject to subparagraph (9) of this paragraph shall be subject

to the following compliance schedule:

(i) November 1, 1973 - Submit final control plan to the Administrator.

(ii) February 1, 1974 - Let necessary contract for construction or installation of control equipment.

(iii) April 15, 1974 - Initiate onsite construction or installation of control equipment.

(iv) November 30, 1974 - Complete onsite construction or installation of control equipment.

(v) December 31, 1974 - Final compliance with the requirements of part 214, sections 214.2 and 214.4, of subchapter A, chapter III, title 6 of New York State's official compilation of codes, rules, and regulations.

11. Any owner or operator subject to a compliance schedule above shall certify to the Administrator, within five days after the deadline for each increment of progress in that schedule, whether or not the increment has been met.

12. (i) None of the above subparagraphs shall apply to a source which is presently in compliance with applicable regulations and which has certified such compliance to the Administrator by October 1, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(iii) Any owner or operator subject to a compliance schedule in this paragraph may submit to the Administrator no later than October 1, 1973, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after the final compliance date in the applicable compliance schedule of this paragraph. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

13. Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in subparagraphs (2), (3), (5), (6), (8), and (10) of this paragraph fails to satisfy the requirements of 51.15 (b) and (c) of this chapter.

(37 FR 19815, Sept. 22, 1972, as amended at 38 FR 16146, June 20, 1973; 38 FR 22744, Aug. 23, 1973; 38 FR 24341, Sept. 7, 1973; 39 FR 33314, Sept. 17, 1974; 39 FR 41254, Nov. 26, 1974)

(12.0) 52.1683 Transportation and Land Use Controls.

a. To complete the requirements of 51.11 and 51.14 of this chapter, the Governor of New York must submit to the Administrator:

1. No later than July 30, 1973, the legislative authority that is needed for carrying out the transportation and/or land use control strategies;

2. No later than December 30, 1973, the necessary adopted regulations and administrative policies needed to implement such strategies.

(38 FR 16567, June 22, 1978)

(14.0) 52.1685 General Requirements

b. Regulation for Public Availability of Emission Data

1. Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

2. Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b)(1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31.

3. Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

4. Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the state designated by the Regional Administrator.

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(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Pollutant	Area Designations Class I (ug/m^3)	Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)